EQUALITY BEFORE THE LAW

The Struggle of Nineteenth-Century Black Californians for Social and Political Justice

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INTRODUCTION

The focus of this work is the mid-nineteenth-century struggle of Northern California black men and women for the elevation of their race and the "equality before the law" which became their battle cry. Black Americans have a long history of presence in the area now known as the State of California. They aided Spanish exploration of this vast, wealthy region, and even gave one of their number to serve a term as governor while it was yet under Spanish dominion. However, black men among Spanish were few and probably limited, in the main, to servants. When in 1850 California was admitted to U.S. Statehood, her Black population was approximately one thousand and increasing. Blacks came over land, through Panama, and around the Cape. Some came in bondage. They remained here a few years then accompanied their masters on the return voyage eastward, laden either with gold or with frustrated hopes. Some came as freemen in search of the precious ore and many of these, too, turned their steps to the east once their adventure in the motherlode was ended.

But other Blacks saw in California a good and promising place to set down roots. Aside from the attraction of gold, blacks believed that the West offered social and political advantages for those of their race. The job market was thought to be good and there were seemingly myriad opportunities for the enterprising man to establish himself in a business or trade. Further, blacks felt that in the west they could escape the proscriptive life of Southern black codes and Northern discrimination. Pennsylvanian James Williams, a runaway slave, recalls in his memoirs that, although he sought a place of safety, he did not go to Canada be-

cause, "...hearing such bad reports of starvation and knowing I was poor, I concluded that I would go to California." Hence, in March of 1851, Williams hired on as a cook on the steamer North America and thereby bought his passage to California. The previous year, Mifflin Wistar Gibbs, spurred by dim prospects for his vocational future in New York and by reports of wealth to be had in California, decided to book passage westward on the steamer Golden Gate.[1]

By the time of the California census of 1852 there were over two thousand blacks residing in the State - about fifteen hundred native-born Americans, about five hundred from various foreign countries, as far removed as Africa.[2] For the native-born blacks polled in the census, the data on their places of last residence are as follows:

North, 43% or 662 persons

New England	174
Atlantic States	408
Old Northwest	80

South, 46% or 701 persons

Upper South	408
Lower South	293

Other, 11%

Midwest	3
Far West	29
No response	134

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[1] From Ernest Siracusa, "Black 49ers". Unpublished research paper, 1959. Found in Bancroft Library, University of California, Berkeley. pp. 45. Gibbs was to become a leader in California's black community. In the East he had worked in the abolitionist movement with Frederick Douglass. Cf. his autobiography, Shadow and Light (Washington: n.p, 1902), front cover sheet.

[2] The statistics given are taken from Siracusa, "Black 49ers", passim. Mr. Siracusa has painstakingly gone through the U.S. Census Reports for 1850, 1860, 1870, and the California Census of 1852, drawing together figures dealing with blacks in a wide variety of categories, including population, occupation, State of origin, geographical distribution in California, et.al.

In the early years there were a number of parallels between the situations of blacks and whites. Both had come for basically the same reasons (except for the matter of flight from race discrimination). Both groups tended to leave their women behind, either to await their return in wealth or to await the establishment of a solid economic base for family life in California. Consequently, for a time the men far outnumbered the women: of the 962 free blacks in the State in 1850 only 90 were women.[3] The largest single percentage of both blacks and whites were engaged in mining and related work. Thus the highest population concentrations were in the mining regions. By 1852, only about half of the State's blacks were still living in the mining areas; some five percent were found in the south and extreme north; the rest had moved to the San Joaquin valley and San Francisco. White movement followed a similar pattern. Eventually San Francisco came to claim the lion's share of the black population (one-third by 1870) with Sacramento holding the second largest concentration, and sizeable groupings in Stockton, Marysville, San Jose, Los Angeles, and Oakland.[4]

Black Californians suffered the same social and civil disabilities as in the States from whence they had come: they were denied educational privileges, the franchise, full legal rights in court, and full economic and political opportunity. This dissertation will examine the forces preventing the enjoyment of

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[3] Seventh Census of the United States: 1850 (Washington: R. Amrstrong, Public Printer, 1853). Some blacks who left no wives in the East married among the Indians.

[4] Siracusa, pp. 7, 8; Ninth Census of the United States: 1870 (Washington: Government Printing Office, 1872).

each of these rights in Calfifornia. Such questions will be addressed as: What were the specific legal restrictions? Who were the men or factions responsible for initiating or supporting these restrictions? What were the expressed reasons and issues involved? To what degree was this California situation a reflection of the larger North-South and black-white tensions?

This work will examine the efforts to combat these racial restrictions made by individuals, local groups, and State-wide efforts. The period covered in this study will be from 1849 to 1880. The former date marks the numerically significant influx of blacks into the State and the beginning of their fight against discrimination. By the latter date the de jure discrimination had been challenged and, for the most part, eliminated. Black Californians then turned to capitalizing on their gains while yet contending with a persistent discrimination de facto. The study is limited primarily to Northern California. In the first decades of the State's history there were very few blacks to be found in the Southern areas. In fact the general peopling and development of Southern California did not begin in earnest until the late 1860's, largely resulting from the completion of the transcontinental railroad and a land boom.[5] Occassionally, however, there will be mention of rights activity among Southern California blacks and of their cooperation in the State-wide movements. Some reference will also be made to rights activity in Nevada and Oregon; blacks in the far Western States kept up with each other's

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[5] Cf. John W. Caughey, California (Englewood Cliffs: Prentice-Hall, Inc., 1970), Chapter 21. Caughey outlines how land speculation, the lure of Southern California's salubrious climate, shipping business, and the railroad, itself facilitating the other factors, caused a rapid expansion of population and socio-economic development in the Southern section of the State.

efforts for social and political elevation and lent whatever support possible, usually only moral. Within California, itself, much of the material will deal with San Francisco. This was the area of by far the heaviest black concentration and many of the talented blacks who led the rights movement resided there. Also, the main conservators of the records of black activities, the black newspapers, were published there and thus had ready access to more detailed information about this group of blacks.

Along with the influx of blacks came that institution created decades before admist white oppression on the farms and white rejection in the cities - the Black Church. As early as 1850 one finds an African Methodist Episcopal (A.M.E.) Church, St. Andrews, opening in Sacramento. Two years later, San Francisco saw the founding of Bethel A.M.E. And other Black churches were soon to follow, including Baptist, A.M.E. Zion, and black congregations of Episcopalians. The Church was the only major enterprise which blacks owned and controlled. And as such it continued to hold an important position in black community life.

Among the social-action minded of American blacks today the question is persistently asked, "What part has the Black Church played in our struggle for liberation?" This question cannot be met with a simple answer because contained in it are many other questions and complex issues. For example, how does one define "the church"? When are the actions and pronouncements of clergy and of laymen to be construed as representing "the church"? How does one identify and/or separate religious motives from other motives in seeking to understand the impetus of a man's, or a group's actions? This dissertation will not attempt to speak to these questions in detail. Rather, the view which it will attempt to set forth on

this matter is, first, that congregations and Conferences, meeting as official church bodies, as determined by their denominational rules, gave verbal and material support (monies, facilities) to the rights movement and encouraged their constituents to pursue moral, social, and political advancement; second, that a very large part of the leadership and legwork of the movement was provided by clergy and laymen who acted as black men for the good of their own race but who also saw in the tenets of their faith the imperative to seek the liberation of all oppressed men. In a real sense, then, the rights struggle was religious in its conscious motivation and in character. Blacks argued that they merited the rights of citizenship by their native birth, their love for the country, and their committment to its culture and political system. But they offered the Divine Will, as expressed in creation and Scripture, as the authority for their undeniable claim to those rights. As the story of the rights movement unfolds black clergymen will be seen assuming leadership roles, staffing rights organizations, and supplying the apology for the movement.[6] The Church and religion will not always be obvious in what transpires, for the rights movement was not a religious or ecclesiastical crusade, per se. Rather it was a social movement which was self-consciously religious in its rationale and which, therefore elicited the active participation of churchmen.

The opposition to black rights as posed by whites was based on social and racial arguments having to do with the black man's

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[6]For a full explication of the relation blacks drew between religion and their social action see below, Chapter I.

alleged personal repugnance and his natural incompetence to perform the duties of citizenship or engage in democratic governmental processes. Underlying this evaluation of blacks was the widely-held concept of the superiority of the Anglo-Saxon race and its Providential destiny to become the dominant political, social, and cultural force in the world.[7] Hence, not only were blacks to be denied civil and political equality but so also were the other "inferior races". In California these were primarily Native Americans (Indians) and Chinese.[8] The white oppressors of the racial minorities may have been churchmen, but they did not employ scriptural arguments for their position as did the pro-slavery laymen and clergy of the South.[9]

The methods of the black rights movement were confined to the various forms of peaceful agitation, such as petitions to the Legislature, letters of protest in news journals, personal persuasion of influential whites, and selective voting. There was never a resort to violent coercion or even the suggestion of it as an option. Free blacks nation-wide generally shunned armed or violent efforts for black rights. This probably stemmed in part from a realization of the futility of such an attempt, given the overwhelming odds and the brutal white repression which followed these attempts. Another part of the reason seemingly was a principled com-

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[7] A good statement of this theme of Anglo-Saxon Providential destiny or Manifest Destiny is the work by Josiah Strong, Our Country: Its Possible Future and Present Crisis (New York: The Baker and Taylor Co., 1885).

[8] H. Shelton Smith gives a thoroughtreatment of the Southerners' Scriptural argument for slavery in his recent book In His Image, But... (Durham: Duke University Press, 1972).

[9] For reasons made clear in the chapters below, blacks did not unite with other oppressed groups in a common rights struggle.

mittment to non-violent agitation. Some blacks sided with men like the Rev. William Whipper, who urged black slaves to non-violence with such admonitions as,

> "Whoever for any cause inflicts a single blow on a fellow human being violates the laws of God and of his country and has no just claim to being regarded as a Christian or a good citizen."[10]

Other blacks saw violence as acceptable under given circumstances. For instance, the Rev. Henry Highland Garnett, a Presbyterian minister in New York, issued in 1843 an address to black slaves, calling upon them to

> "...use every means, both moral, intellectual, and physical that promises success.... Brethren, arise, arise! Strike for your lives and liberties. Now is the day and the hour."[11]

But in terms of themselves as free blacks, most were convinced that within the democratic structures and procedures of the country justice could be had if a persistent appeal were made to reason and the country's espoused principles, as expressed in the documents of the American Revolution (e.g. the Declaration of Independence).

The many speeches, resolutions, editorials, and other statements which came out of the nineteenth-century California black rights struggle provide an illuminating analysis of both the Negro's understanding of American history and of his conception of his place in American society and duty to its government. Further, in the conflict of blacks with the restrictive laws and presuppositions of the ruling white class, many aspects of the white

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[10]Quoted in St. Clair Drake, The Redemption of Africa and Black Religion (Chicago: Third World Press, 1970), p. 33.

[11]Quoted in Herbert Aptheker, A Documentary History of the Negro People in the United States 2 Vols. (New York: The Citadel Press, 1971), Vol 1, pp. 229, 232.

belief in the Providential white rule of California and the U.S. as a whole were brought out. And then, the rights movement serves as an exemplary case in point of the problems, programs, and potential of organized black social action.

Scholarly works on the West are unduly limited in number. Most of those which have been done were written from the implied perspective that significant history concerns only what white men do; the activities of other groups are only secondary or tertiary sidelights to this primary story. (This is true of American historiographical works in general.) Hence, in histories of California, Indians are briefly mentioned in their roles as guides for whites, as pawns for, or disturbers of, white advancement, or as a race dying out from crime and licentious self-indulgence. But no detailed account is given of life within the Indian community, of the influence of Indians on the general culture, or of their role in the development of the State. The same is true of the Chinese, who elicit mention, though not credit, as builders of the railroad. And the harsh discriminatory treatment they received at the hands of whites and the attendant legal struggle to exclude their immigration are seemingly the chief reasons State histories have given them a place. Even more is this true of the Negro. Robert Cleland's History of California (1927) makes some mention of Indians and Chinese but gives no reference in table of contents or index to Negro, colored, or black, though he does mention "Nigger Alley"; one can expect little of substance on the Negro in the text. Robert Mann's Master's Thesis, "Protestant Missionary Activities in California, 1849-59", notices not at all either the missionaries of black denominations or the black churches found in each of the major cities, which the most cursory research

uncovers. The omission might have been understandable had the thesis title specified white Protestant activities, the only ones the author seems to deem important. Even the fairly critical work by John W. Caughey, California (1940), omits the Negro in its long index and devotes only a few words (not paragraphs or sentences) to him in the text.

One type of source material which was extremely helpful in reconstructing the story of nineteenth century black Californians was the newspapers of the day, particularly the black publications, the Elevator, and the Pacific Appeal. These black papers, though published in San Francisco, had reporters and contributors in nearly every location in Northern California where blacks lived. They also received national news via the telegraph and exchanged papers with major journals, black and white, across the country. Thus, any speech, meeting, event, or development bearing on the situation and interests of the Negro was likely to find its way into the columns of the Elevator and the Pacific Appeal, no matter where it took place. Further, these papers were the forum for debate and discussion of the current issues relevant to the black man, as well as instruments of communication for calling the black community to convention and action on given issues. The editor of the Appeal was Peter Anderson, who came to San Francisco around 1853. The course of his life before that time is uncertain. In California he was a highly respected leader among blacks. The Elevator was edited by Phillip A. Bell. Bell was quite active in black rights causes in the East. The Anglo-African newspaper dubbed him "... the born sabreur, who never feared the face of clay [Henry Clay]."[12] He was active in the

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[12]Aptheker, op. cit., Vol. 1, p. 99.

National Negro Convention movement. Bell was among those black leaders who opposed the program of the American Colonization Society. He supported the abolitionist cause, becoming a personal friend of Frederick Douglass, who said Bell was "...a tried and true friend of our common cause, among the first of our race to assail with /his/ pen (mightier than the sword) the malignant ramparts of slavery and cast...."[13] Douglass was apparently referring to Bell's work as editor of the paper he established in New York in 1837, the Colored American. It was among the very first black newspapers in the country.

The white newspapers of the day, including the denominational papers, are also very helpful, for in them the white community reacted to the presence of the Negro, stated its views on the current racial/social issues, and commented on the Negro civil rights activities. Together, the black and white newspapers form the main corpus of primary source material on the life of the nineteenth-century black Californians and their civil rights struggle. For other kinds of sources, see the bibliographical essay, pp. 255-265.

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[13] Elevator, June 5, 1868, p.2.

Chapter I

A BALM in GILEAD: THE CHURCH and the STRUGGLE

Throughout the mid-nineteenth-century struggle of black Californians for their civil and political rights, Christianity and its black clerical representatives were key elements, serving variously as initiators, supporters, and apologists of that struggle. This chapter, then, will examine the role of religion in the lives of black Californians, seeking to discover the way in which it informed the movement for social and political justice.

The term church will be used in this dissertation to designate an organized Christian religious fellowship with a hierarchical authority structure and stipulated requirements for membership. This will include local fellowships - congregations or church - as well as national denominational bodies - Church. The term church will also be used to signify the physical structures in which local congregations met for religious devotions. The context will make clear in each case which specific usage is meant. This definition is not intended to be historically comprehensive or theologically analytical, as it would need to be if this dissertation sought to be an historical examination of the black Church, per se. But since it is a study of a black social movement which had religious underpinnings, the definition is intended only as a working tool to identify various structural classifications of professed Christians. However, in one section of the present chapter some attention will be given to the distinctive understanding of Christianity among blacks over against that of whites.

Across the nation, the church became a focal institution in black communities. For slaves, among whom it was often a clan-

destine, unofficial organization, the church gathering served as one of the only *loci* of respite and relief from the ardors of chatteldom.[1] There, in retreat with their fellow sufferers, their burdens could be laid down, if but for a moment, and they could celebrate their common joy in God's acceptance of them and their hope in His deliverance. For free black men, the Church was one of the few institutions which they wholly owned and administered.[2] This was a particularly attractive feature for blacks because it gave opportunity for them to exercise their skills and invest their creative energies in an agency which was black-oriented and could return some personal status and some benefits for the black community. Further, the church building was usually the only public facility available to blacks for community meetings and social functions.[3]

The importance of the church in the lives of black Americans was evidenced in the fact that whenever black settlements or communities were established the church followed close behind;

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[1] Whites feared that organizations among slaves would be seedbeds for insurrection. Consequently, any kind of structured religious fellowship among slaves was discouraged in some cases, prohibited in others. Slave Christians were required either to worship with the white congregation or under white pastors and monitors. But slaves strongly desired to worship away from white presence or oversight. Thus they would "steal away" to the woods, or to the riverside, or to other out of the way locations to carry on their religious devotions.

[2] Free blacks established their own denominational bodies in response to segregative practices in the white Churches. These black Churches were completely independent of the white parent organizations, though they retained similar ecclesiastical and liturgical structures. Cf. Richard Allen, The Life Experience and Gospel Labors of the Right Reverend Richard Allen (New York: Abingdon Press, 1960). This work is a collection of autobiographical narratives and some addresses, written by Allen in the 1790's. It includes an account of his role in establishing the African Methodist Episcopal Church (pp.21-41).

[3] For a good, brief treatment of the rise and development of the Black Church see E. Franklin Frazier, The Negro Church in America (New York: Schocken Books, 1964), especially Chapters 1-3.

oftentimes it was the black preacher who led in the founding of a new community and who became its patriarch. California was no exception to this pattern. When "gold fever" spread through the East in the latter 1840's, blacks were among those infected, or sometimes affected. That is to say, many black men set out to seek their fortunes in the California gold fields. Many others were brought as slaves by their masters to assist in the treasure hunt. In 1850, California was officially initiated into Statehood. In 1850 also, California saw the establishment of her first black church, St. Andrews A.M.E. It was located in Sacramento, then one of the major cities of the mining region. It was organized by the Rev. Bernard "Barney" Fletcher, an A.M.E. local preacher. In 1851 St. Andrews was admitted to the Indiana Conference of the A.M.E. Church.[4]

The following year two more black churches were organized, this time in San Francisco. August 1, 1852 was the founding date of the First A.M.E. Zion Church, under the pastorate of the Rev.

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[4]In the A.M.E. Church a "local preacher" or "licentiate" is one who is licensed by the Church to preach but who has not as yet advanced to ordination. Until 1869 most of the A.M.E. clergy on the West Coast were local preachers. At that time, Bishop T.M.D. Ward ordained a large number as deacons. Cf. Elevator, March 26, 1869, p.2.

Leon L. Loofbourow, a historian of Methodism claims that St. Andrews was organized by white Methodists in 1850 and later turned over to the A.M.E. Church since the Methodists had no other projects in the Sacramento area among blacks. The Rev. Cyrus S. Keller, Archivist for the California Conference of the A.M.E. Church says that Barney Fletcher was the organizer of the church. But Keller's writings say that the persons who purchased the property for the first A.M.E. church building were the "Trustees of the Methodist Church of the Colored People of Sacramento City". So it may be that the Methodists organized the initial congregation and shortly thereafter the Rev. Fletcher brought it under A.M.E. auspices. Cf. Loofbourow, In Search of God's Gold (San Francisco: The Historical Society of the California-Nevada Conference of the Methodist Church, 1950), p.210; Annual Report, 1970-71, a souvenier booklet of the St. Andrews A.M.E. Church, Sacramento. The Rev. Cyrus S. Keller, pastor.

John J. Moore. Moore remained at First Church until 1868, when he took charge of an episcopal see in the East. In the same month that Moore began his church, another group of blacks, led by a Rev. Capon, set up a church organization which initially was named the First Colored Baptist Church of San Francisco; the name was later changed to the Third Baptist Church, indicating its chronological relation to the other, white, Baptist churches of the city. Apparently some of the charter members of Third Baptist were previously members of First Baptist (white). The church records of First Baptist show that a church council was called to consider recognizing the new black fellowship. Recognition was granted and on October 11 a public recognition ceremony was held. The black Baptists had no pastor at this time. They held prayer meeting among themselves and communion was conducted for them by the white Baptist clergy of the city. The exact year that a pastor was obtained is uncertain but by 1858 the church was under the charge of the Rev. Thomas Howell.[5]

On February 14, 1854, some A.M.E.s in San Francisco organized themselves into the St. Cyprian's Bethel A.M.E. Church. The Rev. Fletcher left the Sacramento church in the hands of another local preacher, the Rev. Darius Stokes, and came to San Francisco to pastor the newly-formed congregation.

In the next decade or so churches or preaching stations were established in nearly every town where there was a concentration of blacks. A.M.E. Zion churches were to be found in Napa, San Francisco, San Jose, and Watsonville; there were Baptist congregations in San Francisco, Stockton, Sacramento, and Marysville.

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[5]On the founding of Third Baptist see Sandford Fleming, God's Gold: the Story of Baptist Beginnings in California, 1849-1860. (Philadelphia: The Judson Press, 1949), pp. 100, 102.

T.M.D. Ward came to California in 1854 as A.M.E. Missionary Elder for the West Coast. Largely as a result of his ceaseless efforts, A.M.E. congregations were organized in numerous Northern California cities.[6] And there were two congregations under the charge of the Rev. P.W. Cassey, a deacon of the Protestant Episcopal Church. The first of Cassey's mission congregations, St. Phillip's, was in San Jose. The other, St. Cyprian's, was in San Francisco.[7]

A spirit of friendly cooperation existed among the various black churches. For instance, during the 1863 Annual Conference of the A.M.E. Church, A.M.E. preachers conducted services in each of the three San Francisco churches - St. Cyprian, First A.M.E. Zion, and Third Baptist.[8] When the new Bethel church building was dedicated in 1865, Zion pastor J.J. Moore participated in the ceremony. Moore also joined with Ward and W.H. Hall on a project to establish a literary institute for young men. And on another occasion, the Rev. Cassey conducted services, Episcopal style, in Zion and Bethel Churches.[9]

But the cooperation between the black churches was not all that some blacks hoped it would be. A black resident of Sacramento writing to the Elevator in 1868 expressed dismay that a proposed union of the A.M.E. and A.M.E. Zion Conferences in Cali-

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[6] Ward was the first A.M.E Elder on the Coast, His district included all of California but at this time there were very few blacks in the Southern portion of the State. Around 1870, however, he did discover a small congregation of A.M.E.'s in Los Angeles.

[7] This St. Cyprian's is not to be confused with the A.M.E. church of the same name. For an account of Cassey's California ministry see Lionel U. Ridout, "The Church, the Chinese, and the Negroes, 1849-1893", The Historical Magazine of the Protestant Episcopal Church. Vol XXviii, No.2, June, 1959, pp. 132-38.

[8] Journal of Proceedings of the Third Annual Convention of the Ministers and Lay Delegates of the African Methodist Episcopal Church (San Francisco: B.F. Sterett, Printer, 1863), p.19f.

[9] Elevator, April 7, 1865, p.2; November 17, 1865, p.3; January 8, 1869, p.2.

fornia had not materialized. The writer urged that the union of these two bodies and of the two separate black Masonic fraternities was essential to the unity of black people. The Elevator's editor, P.A. Bell, also argued the need for union of the churches, of the Lodges, and of the various social circles.[10] Available sources do not mention any notable dissentions or feuds among the churches or the lodges. So seemingly those who urged union were looking toward the potentially increased strength which would accrue to the black community from the channeling of its resources and loyalties into inclusive organizations. Nonetheless, the appeals were in vain: neither the churches nor the fraternal lodges were merged.

Between the black and white churches there was some limited cooperation. Two instances of whites helping in the establishment of black churches have already been mentioned. In addition, the Rev. J.L. Shuck, a white Southerner, organized the black Siloam Baptist Church, Sacramento.[11] And in 1865, T.M.D. Ward sent to the California Annual Conference of the Methodist Church a report of A.M.E progress on the Coast. In the letter Ward tendered thanks to those Methodist clergy who had "...rendered [to A.M.E.s] substantial help in prosecuting this great work." Unfortunately, Ward did not specify what aid had been rendered. The Methodist conference issued a statement of congratulations to the A.M.E.s on their progress and encouraged their continued advancement.[12] Occasionally Methodist clergy visited the sessions of the A.M.E.

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[10] Elevator, April 10, 1868, p.2; July 26, 1873, p.2.

[11] Minutes of the Organization and First Meeting of the Sacramento Valley Baptist Association (Sacramento: Crocker & Edwards, 1857), p.16.

[12] Minutes of the California Annual Conference of the Methodist Episcopal Church. 1865 (San Francisco: Towne & Bacon, 1865), pp.26-27.

Annual Conference to personally give encouragement and moral support.

The black Baptists of the State were in regular affiliation with the white churches. The Sacramento Valley Baptist Association and the San Francisco Baptist Association (merged into one about 1861) included all Baptist churches in the State, black, white and Chinese. The black and white Methodists never affiliated, though the editor of the Advocate, the Methodist news organ, said that the door of the Methodist Church was open to A.M.E.s should the blacks desire to unite.[13]

Apparently none of the white Churches had programs of evangelism among blacks. The minutes of their annual associational meetings include reports on home missions but the work was only among what were termed the "heathens" - Chinese and Indians.

In terms of the rights movement the cooperation given to blacks by the white Churches was scant. The statements of officers and committees of the Baptist associations referred to black Baptist congregations with respect and concern as regards strictly church affairs, but the special problems and needs of blacks as an oppressed class were never noted. The Protestant Episcopal Church gave the Rev. P.W. Cassey no financial aid toward his educational work for blacks. Even the monies he received for his mission work were barely enought to make ends meet.[14] And the Catholic Church was seemingly somewhat hostile to blacks. When black slaves were freed by the Emancipation Proclamation in 1863, the Monitor, the Catholic news organ, declared that, "...the Negro on this contin-

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[13] February 1, 1871, p.4.
[14] Cf. Ridout, pp. 136f.

nent, [sic] is not improved by freedom."[15] The Monitor ignored the crucial 1874 Supreme Court decision on black school rights and later asserted that blacks should not attend the public schools with whites.[16]

The records of the Methodists was some better. In 1862 the Annual Conference adopted a firm stance against slavery; in 1865 a prominent Methodist clergyman, O.M. Briggs, permitted the use of his church building for a session of the Fourth Colored Convention; from 1865-1868 the Methodist Conference pronounced in favor of the franchise for blacks. Beyond these supportive public statements there are no indications of corporate Methodist action for the rights of blacks (or Indians and Chinese).[17]

The Congregational General Association was very firm in the stand it took in the 1850's and 1860's against slavery, both in California and in the nation. In 1859 the Association initiated a boycott of literature from the New York branch of the American Tract Society because of that body's stand that publications attacking slaveholders was unconstitutional. And in 1865 the Association passed a resolution calling on the Legislature to grant the franchise to blacks.[18] The General Association thus did more in terms of concrete action than did the other denominational bodies. Yet what they did was not very much.

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[15] Quoted in the Pacific, January 8, 1863, p.2 (Monitor files for this date are empty.) If there was Catholic hostility toward blacks it may have been related to the fact that a sizeable per centage of California's Catholics apparently were Irish. There was tension, sometimes violent, between Irish and blacks in many parts of the nation. Cf. Chapter IV, pp. 109-110.

[16] Cf. Monitor, August 7, 1875, p.4.

[17] Cf. Minutes of the Annual Conferences of the Methodist Episcopal Church, found in the rare book room, Pacific School of Religion, Berkeley, California.

[18] Cf. Minutes of the Annual Meetings of the General Association of California. Found in the rare book room, Pacific School of Religion, Berkeley, California.

The Methodist Advocate and the Congregationalist Pacific carried very widely scattered articles on black rights issues. For the most part black religious and secular activities were ignored. Even such major events as the State Colored Conventions were not reported, though other, white conventions were noted. And this was so even when the events took place in the same city where both papers were published (San Francisco). It is distressing to witness the inattention given to issues of racial justice. For instance, in the Advocate's three-part series on the "State of Education" in California, published in January, 1873, there was no mention of the fact that blacks, Chinese, and Indians were not allowed into the public schools and thus were growing up without the benefits of learning. The same omission is to be found in the Pacific's 1872 article on education entitled "Progress in California."[19]

These religious papers could have been very helpful to the black rights movement as one means of exposing and attacking injustice. But they generally remained aloof from social-action journalism on behalf of minorities. The only consistent, frequently recurring social criticism to be found in them was directed toward Catholics and the alleged antipathy of "Romanism" to American democratic institutions. Rather than social action, these papers, like the denominational associations of the State,

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[19] May 2, 1872, p.3. This ignoring of racial justice is found in the sermon of the noted Congregational minister Horace Bushnell, delivered at First Congregational Church, San Francisco, July 6, 1856. The topic was "Society and Religion: A Sermon for California." Bushnell asserted that ancient slavery was "abhorrent to the fraternal principles of Christ." But he said nothing about the slavery which was even then being practiced covertly in California and openly in half of the country! The full text of the sermon is bound with the Minutes of the Annual Meetings of the General Association of California, Pacific School of Religion.

focused their concerns on what they conceived to be Christian pietistic issues - temperance, Sabbath observance, prayer, and infusing a so-called Christian atmosphere in public institutions and governing bodies.

Thus, as black Californians pursued their religious and civil advancement in California scoiety, they were left largely to their own social and religious resources for the task. It is difficult to determine how many blacks were affiliated with the various churches. Third Baptist Church in 1858 had eighty-four members.[20] Statistics included in the printed minutes of the 1863 A.M.E. Conferece give, among others, the following figures for some of its churches:

Church	Membership
San Francisco	92
Sacramento	32
Stockton	29
Placerville	6
Oakland	8
Marysville	16

The total list included fourteen churches with a total membership of 267.[21] Evaluation of these statistics must take into account two factors. First, they apparently do not reflect the number of persons who attended regularly, only the number who were officially members. For statistics included in the minutes of the Fourth Colored Convention give this accounting of the San Francisco situation: Churches, 2; members 250; attendants, 800.[22]

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[20] San Francisco Directory, 1858 (San Francisco: Commerical Steam Presses, S.D. Valentine & Son, 1858), p.373.

[21] Journal of Proceedings, p.19. The California Conference included the entire Pacific Coast. The membership for churches within California itself, was 240.

[22] Proceedings of the California State Convention of Colored Citizens (San Francisco: "Elevator" /sic/ Printing Office, 1865), p.12. The total black population of the city at this time, according to the Proceedings, was 1850. The listing of only two churches for San Francisco is probably a typographical error. Also, San Francisco was, unfortunately, the only city for which the membership and attendants figures were given.

Further, P.A. Bell, referring to only a portion of the black clergy, the A.M.E.s, claimed that they "represent a large constituency." Bell also said that the best way to insure an audience (black) for an event was to publicize it in the churches. So it seems that a large portion of the black population had regular, direct contact with the black churches.[23]

Secondly, though the figures given above for official members are small in comparison to the size of the black population, the same apparently held true for the white churches. The minutes of the State Baptist Convention held in 1860 listed the membership figures for all Baptist churches in California (including the black churches). Thirty-three of the fifty-three churches had memberships ranging from fifteen to twenty-five; a church reporting eighty-one members was said to have had a "large congregation".[24] Note that the black Third Baptist of San Francisco had 84 members in 1858. Comparing the membership figures for the largest black and white denominational bodies in the State in 1863 to the number of their potential constituents, the following is revealed:

White population	Methodist Episcopal
361,353	3,497 or approx. 1%
Black population	**A.M.E.**
4,086	240 or approx. 6%

These figures suggest that black churches possibly had a much

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[23] Elevator, March 26, 1869, p.2; April 7, 1865, p.3.

[24] Minutes of a Baptist Convention (San Francisco: Towne & Bacon Book, Card, and Fancy Job Printers, 1860), p. 17. The black Baptist churches listed in the Minutes (p.17) show the following memberships: Second Baptist, Stockton - 25; Mt. Olivet, Marysville - 15; Siloam Baptist, Sacramento - 35.

higher percentage of their potential constitutency in actual membership than did white Churches.[25]

In liturgy and ritual the black churches seemingly followed closely the form of the white churches from which they had seized their independence. This is understandable since black denominational bodies had arisen out of racial, not theological or liturgical, conflict with white churches.[26] So, for instance, the A.M.E.s used the Methodist hymnal and a book of church discipline which was basically the same as that of the Methodists, One notable divergence was recorded in an Appeal article in 1863. It was reported that the Rev. Ward baptized eleven persons by immersion, while Methodist, and A.M.E., policy called for baptism by sprinkling. The details of, and reasons behind, this incident were not given. But it accorded with the proclivity among some blacks for immersion baptism. Frederick Law Olmstead, noted nineteenth-century agriculturalist and traveler, included a reference to this in the printed accounts of his journeys to the South in the 1850's. Imamu Amiri Baraka (Leroi Jones) offers the explanation that the black preference for immersion baptism was a residual element of their African past: it was reminiscent of the rites associated with the river gods of West Africa, believed by the natives to be be among the more powerful of the spirits. Presumably Baraka means that though this actual association faded with the passing

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[25] Eighth Census of the United States, 1860; Journal of Proceedings, p.19; Pacific, January 1, 1863, p.2. The Pacific gave the State's Baptist membership as 1,620, which included black Baptists.

[26] Cf. Allen, loc.cit; Carter G. Woodson, The History of the Negro Church (Washington: The Associated Publishers, 1921), pp.71-99.

of time, Afro-Americans still tended to cling to the outward form.[27]

California's black churches also engaged in such common church pratices as prayer meetings, protracted meetings, and New Year's Eve watchnight services.[28] In reviewing the available sermons, orations, and news journal articles of California's black clergy and laymen, one is led to conclude that there were areas of similarity and also areas of fundamental difference between black Chirstians' conception of the faith and that of white Chistians. William P. Powell, a black resident of San Francisco, decided in April of 1874 that he would make the rounds of many of that city's churches to observe the status and progress of Christian worship since his boyhood years.[29] Commenting on the Bethel services he said that the sermon had as its theme "godliness and the holy life", which the pastor enlarged upon "with much earnestness, scripture quotations, and eloquence." Of the Rev. P.W. Cassey's Christ Church Mission, Powell remarked that, "The morning services were strictly in conformity with the rubrics of the Episcopal Church", and the sermon was in keeping with the lenten season. The Rev. Hillery at Zion Church preached from Romans 10. The Rev. J.R. Young at Third Baptist, said Powell, offered a prayer for forgiveness and for blessings upon the people, then preached from Luke 13:38. In his presentation he called to his hearers' minds David, the slayer of Goliath, the Hebrew children

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[27]Olmstead, Cotton Kingdom (New York: Alfred A. Knopf, 1953), p.349; Jones, Blues People (New York: William Morrow and Company, 1963), p.38.

[28]Cf. Lunar Visitor, February, 1862, p.3; Journal of Proceedings, p.30; Elevator, January 3, 1868, p.2.

[29]His observations were printed in two articles for the Elevator, April 18, 25, 1874, p.2 in each case.

in the fiery furnace, Daniel in the lion's den, and their own slave fathers; the congregation was urged to work for the salvation of souls with the faith and perseverance of these men.[30] J.E.M. Gilliard, a black man who often lectured through the State on black rights, published an account of a service he attended at Bethel.[31] The text of the sermon was Revelations 14:15. Following are some portions of the message:

> As he prepared for his imminent death, Jesus, the "son of God, Savior of fallen man..., very man, very God" consoled his disciples with the promise of the Comforter, the Holy Spirit.
>
> Jesus healed the sick, forgave sins, restored sight, and went about doing all manner of good for men, even those who persecuted him. "Yet was he reviled by those unto whom he came as a Savior, not to be bruised with a reed, not to be told, 'thou hast saved others, thou canst not save', not to be pierced with a spear...but to preach deliverance to the captive, and bid the oppressed go free."
>
> As man he bore the cross and was crucified for the sins of the world. He rose and ascended to Heaven where he now makes intercession for those who worship him in Spirit and in truth. But as God he will come again, this time in power and glory to bring sinners to account and to gather to himself his elect.

P.A. Bell, editor of the Elevator occasionally made comments in that paper which indicated some of the beliefs and teachings of California's black Christians. In a statement of his own definition of God Bell described the deity as, "The sum of eternity; the machinist of nature; the eyes of justice; the matchless power of the universe; the soul of the world." In his New Year's edi-

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[30] Powell noted that Young's church had an indoor baptismal pool. Powell deemed this much more satisfactory than the old custom of baptizing outside in the Bay. He also commented upon the presence of church bells in Bethel and Zion churches and an organ in Bethel. Though this was at variance with traditional black churches, said Powell, it was not bad because, as it was a progressive age, the church must "advance to a higher sphere of worship". A further observation of Powell's was the predominance of women over men in the worship services.

[31] Elevator, November 26, 1869, p.2.

torial for 1869, Bell spoke of the "...commencement of the Christian year", he urged the praise of God for his blessings, and he called on men to regulate their lives so as to be prepared and unafraid "...when Azrael summons...." On another occasion, Bell called on black clergy to preach more about how to deal with one's fellowmen in this world than about "What Shall become of us when we die!" He pointed to a sermon by the Rev. Hillery, on the cause and cure of vice, as an example of the kind of "practical sermon" for which he saw need.[32]

Additional insight into black church teachings was offered in the questions posed to candidates for diakonate ordination in the California A.M.E. Conference, such as,

> "What is the difference between Natural Theology and Revealed? What are the attributes of God? His Moral Perfections? What is the difference between Unitarianism and Trinitarianism? The difference between Repentance and Justification? Between Justification and Sanctification"[33]

In these items by Powell, Gilliard, Bell, and others, one witnesses what seems to be theological and dogmatic understandings easily locatable within one or another of the diverse strands of nineteenth-century white American Protestantism. This should not be surprising, for the conflict in American Christendom which gave rise to separate black denominations was, on the one hand, not at the point of dogmatic or theological formulations. Both the black and the white Methodists who permanently parted company at Philadelphia's St. George's Church and at New York's St. John's

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[32] Elevator, January 15, 1869, p.4; January 1, 1869, p.2; June 14, 1873, p.2.

[33] Journal of Proceedings, pp.32-33. Unfortunately the answers of the candidates were not recorded.

would have given ready assent to the articles of the Apostles' Creed or other similar statements.[34] The black - white schism was primarily the outgrowth of white racism which denied to black Christians the fellowship and status in the churches accorded to whites. But theology was intimately associated with this issue of racism. For whites had developed theological constructs which, in their minds, validated their treatment of blacks. Black Christains, on the other hand, were sensitized by this treatment to those elements of the Judeo-Christian tradition which spoke most clearly and directly to the man on the under side of life. Hence, while certain doctrinal points were held in common by blacks and whites, the theologies espoused by the two groups took some divergent trends.

The main theological difference was on the point of where God cast the weight of his activities in history. Among whites the notion of the direct involvement of God in American life had existed from the time of the first colonial settlements.[35] The roots of the idea lay in the "federal" or "covenant" theology which came out of the Netherlands and took root in France, Germany, and England. This theological current characterized the relationship between God and his elect people as a covenant: the elect bound themselves to obedience to God's will in return for which God would extend to them the gift of salvation - temporal blessings and the eternal reward of Heaven. The enunciators of this position argued

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[34] St. George's and St. John's were the churches out of which came those bodies of blacks who formed the A.M.E. and the A.M.E. Zion Churches, respectively. Cf. Allen, loc.cit; Woodson, op.cit. pp. 73-79.

[35] Cf. Perry Miller, Nature's Nation. (Cambridge: The Belknap Press, 1967), pp. 5-8, 17-18.

that the personal covenantal relationship logically extended to collective bodies of the regenerate, such as the Church and the state. However, not everyone who subscribed to the covenant - personal or corporate - could be definitely assured that they were among the elect; only God knew for sure, because it was He who determined who they were.[36]

In the early seventeenth century certain groups of English Puritans made the decisive choice to forsake the oppressive conditions of the Mother Country - religious persecution for some, famine for others, economic distress for still others. They embarked upon their ventures with a sense that there was some auspicious specialness in what they were about doing, that they were initiating a new covenantal relationship with their God. And so it was, that before even nearing the land which was to be the New England, the leader of the Puritan migration, John Winthrop, preached aboard the flagship Arbella a sermon which outlined articles of the covenant.[37] Winthrop declared that he and his fellow emigrants were chosen by God and given a special commission. Faithful attendance to this asigned task was their obligation in the covenant. The task was to establish a civil and religious government which would be a "modell of Christian charity." It was to embody the divinely ordained class structure in which there were rich and poor, men of influence and men in subjection. Within

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[36] For a more extensive treatment of covenant theology see Otto Ritschl, Dogmensgeschichte des Protestantismus (Gottingen: Vandenhoeck & Ruprecht, 1912), and Charles S. McCoy, "The Covenant Theology of Johannes Cocceuis" Doctoral Dissertation, Yale University, 1956.

[37] The sermon was later published under the title, "A Modell of Christian Charity". Excerpts are found in H. Shelton Smith, Robert T. Handy, and Lefferts Loetscher (eds), American Christianity, 2 Vol. (New York: Charles Scribner's Sons, 1960), Vol I, pp. 98-102.

this structure there was to be the unrestrained exercise of justice, mercy, and humility before God. This new Christian society, said Winthrop, was to be an example for all subsequent societies to emulate. The people were to bear constantly in mind that theirs was not to be just an insignificant, unnoticed venture. Rather, "...wee shall be as a Citty upon a hill, the eies of all people are uppon us ...." Failure would mean international shame. But faithfulness in the task would cause God "to delight to dwell among us, as his owne people and will command a blessing upon us in all our wayes...."[38]

This idea of the covenantal relationship between God and his chosen New World colonists spread from the puritan Massachusetts Bay colony and remained as a significant influence in the budding American consciousness for over a century. For example, in June, 1775, the Continental Congress published throughout the colonies a recommendation that, in light of the impending confrontation with England, July 20 be set aside as a day of prayer and fasting,

> "that we many with united hearts and voices unfeignedly confess and deplore our many sins, and offer up our joint supplications to the all-wise, omnipotent and merciful Disposer of all events; humbly beseeching him to forgive iniquities, to remove our present calamities, to avert those desolating judgments with which we are threatened....[39]

By the nineteenth century the idea of America as a potential

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[38] The notion of the puritan colonists' special mission is explored in Perry Miller, Errand Into the Wilderness (Cambridge: Belknap Press, 1956).

[39] Quoted in Perry Miller, "From the Covenant to the Revival", in James Ward Smith and A. Leland Jamison, The Shaping of American Religion (Princeton: Princeton University Press, 1961), p. 322.

world exemplar and leader was modified to the effect that the leadership role was no longer held to be conditioned upon fulfillment of a covenant but rather was seen as the irreversible Providential design. The steady territorial and economic advance of America was taken as the readily observable indicator of the truth of this thesis. Further, in the old covenantal conception, the nations of the world would be inclined to follow the American example by its obvious merit. But the revised conception, Providential design or, as it was called, Manifest Destiny, carried to conclusion its own inner logic and declared that the nations of the world would be involuntarily overtaken by the Christian Civilization of America, on the strength of its superiority. Apparent in the ideas of this new conception as it developed was the influence of Social Darwinism, which spoke of the conflict of divergent social and cultural systems, with the ultimate survival of the most fit, similar to the way in which this competition occured in the biological realm. In his famous volume, Our Country, the Rev. Josiah Strong stated the matter in this way:

> "It seems to me that God, with infinite wisdom and skill, is training the Anglo-Saxon race for an hour sure to come in the world's future....The time is coming when the pressure of population on the means of subsistence will be felt here as it is now felt in Europe and Asia. Then will the world enter upon a new stage of its history - the final competition of races, for which the Anglo-Saxon is being schooled. Long before the thousand millions are here, the mighty centrifugal tendency, inherent in this stock and strengthened in the United States, will assert itself. Then this race of unequaled energy, with all the majesty of numbers and the might of wealth behind it - the representative, let us hope, of the largest liberty, the purest Christianity, the highest civilization - having developed peculiarly aggressive traits calculated to impress its institutions upon mankind, will spread itself over the earth...
>
> "Whether the extinction of the inferior races before

> the advancing Anglo-Saxon seems to the reader sad or otherwise, it certainly appears probable...."[40]

Both the covenantal conception and the concept of Manifest Destiny posited God as the effectuator of the American people's progress. Progress, however, received no new definition but was viewed in the conventional terms of political, economic, and territorial advancement. And since America was experiencing these in seemingly unabating proportions, the indication was taken that God was actively bringing about and supporting progress thusly defined, and coordinately, supporting the people who were the instruments of its realization. This conclusion, hinging as it did on a culturally - defined notion of progress, was essentially self-authenticating.

Now, whereas many white American Christians conceived of God's acts among men as primarily in behalf of a people in the ascendency, black Christians, because of their social condition, were more acutely sensitive to the biblical message of God's committment to the cause of the oppressed. Christianity had been introduced to blacks from the earliest days of their arrival in the colonies as slaves. White fear of the incendiary potential of the gospel's message of human freedom caused tight restrictions to be placed on the access of blacks to the Bible or to the clerical office. The form in which the faith was presented to them by whites most often supported their servitude and advanced the necessity of acquiescence in their condition. For instance, the biblical text most frequently used for sermons to slaves was Ephesians 6:5: "Servants,

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[40] Strong, Our Country, pp.174, 175, 177. Italicized portions are so in the original

be obedient to them that are your masters...as unto Christ."[41] For this reason many slaves rejected Christianity. But others adopted this new faith as their own because within the biblical literature as they heard it recounted and as they managed secretly to read it for themselves, they perceived the hope for their liberation - in a dual sense. They believed that just as in olden times God's people, the Israelites, were oppressed by their Egyptian overlords and God brought them out across Jordan to a promised land, so, too, would He bring his new People, faithful Christians, across the "deep river" into his promised heavenly kingdom. This was the sense both the missionaries and the planters intended the slave to receive, and he did. But the story of the Hebrew children had another, more mundane signification to the slave. To him, the saga of the Old Testament Israelites was more than a metaphor of spiritual salvation; it was a paradigm of his own physical deliverance: enslaved blacks were a New Israel, God's oppressed people. And as God once raised up in the midst of His people a Moses to command an exodus, so would he do it again. Indeed, many a slave revolt leader felt himself to be that Moses. Free blacks, most of whom were ex-slaves, employed the Exodus motif in reference to their own condition; they spoke as men who, though unbound, were yet abused; they emphasized the sure visitation of God's justice on those who trampled the poor and the weak underfoot.[42]

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[41] The common usuage of this text is attested to by numerous ex-slaves. Cf. Gilbert Osofsky (ed) Puttin' On Ole Massa (New York: Harper & Row, 1969), p.34; B.A. Botkin (ed), Lay My Burden Down (Chicago: University of Chicago Press, 1945), p.26.

[42] The Exodus theme, in relation to both spiritual and physical salvation, is found in many of the Negro Spirituals. Cf. James Weldon Johnson and J. Rosamond Johnson, The Books of American Negro Spirituals, Two volumnes in one, (New York: The Viking Press, 1969), vol. I, pp. 51, 60, 100, vol. II, p.84.

The writings and speeches of California's black clergy and laymen reflect very clearly these conceptions of God as the enforcer of justice and the deliverer of the oppressed. Dr. Ezra Johnson, in an Emancipation Day Oration, drew upon the Scriptures (Ps. 12: 5) for his description of God as

> "...Him who is thundering in the Heavens for the oppression of the poor: for the sighing of the needy. I [God] will arise; I will set him in safety from him that puffeth at him."[43] [sic]

The Civil War and related events elicited from blacks numerous statements of their beliefs about God's action in history. As the fighting raged in the South, the Rev. T.M.D. Ward declared that "...the God of battles is leading on the armies of the free, and breaking, with His strong right hand, the bonds of the oppressed...."[44] In an address before the 1863 A.M.E. Annual Conference, Ward reiterated this idea. He chose as his text Jeremiah 10:7, "Who would not fear Thee, O King of Nations?" He said God,

> "...the Dread Avenger, is raining down his wrath on the despot. The death knell of slavery has sounded. At the first shots of the war, the captives shouted 'He is coming - our deliverer, he is coming!'"

The Conference unanimously adopted a report in which God was credited with Emancipation. The war, said the report, was His fearful response of anger, triggered by the cries of the oppressed.[45]

Two years after the War ended, a laymen writing to the Ele-

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[43] Johnson, Emancipation Oration, (San Francisco: Elevator Office [sic], 1867), p.3.
[44] Appeal, July 26, 1862, p.2.
[45] Journal of Proceedings, p. 40, 41, 22.

vator over the signature E.H. used the metaphor of the theater to convey his interpretation of events. In his view,

> "The war was ordered by Divine Providence for the delivery of the oppressed. Jeff Davis and Abraham Lincoln (God bless him) were on the stage before the people, but the God of Justice was behind the curtain, and just as sure as God ruleth the destiny of man, just so sure will the oppressed of America be delivered, if they put their trust in him."[46]

In an oration delivered in 1861, the Rev. J.B. Sanderson said that loyal Unionists saw the Emancipation Proclamation as an act of national repentance for the crime of slavery. It was also the coming of the year of jubilee.[47] The slave, said Sanderson, heard in the Proclamation the voice of God saying,

> "I have surely seen the afflictions of my people. I have heard their cry by reason of their taskmasters. I have come down to deliver them.... I have surely visited them and will bring them up out of their afflicitions."[48]

Sanderson claimed that Lincoln didn't fully understand the far-reaching significance of the Proclamation; he wrote it hesitantly as a matter of unavoidable state policy. Unbeknownst to him, he was an instrument controlled by the Spirit of God, which controls all the events of life in accordance with His purposes.[49]

The Scripture which Sanderson quoted was part of the narrative of the Exodus. The terminology of this ancient drama was frequently used in reference to black Emancipation. In the 1863 A.M.E. Conference, T.M.D. Ward had attested that the pillar of fire which led Israel would also lead blacks through the War's

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[46] Elevator, December 13, 1867, p.3.

[47] In the book of Leviticus (25:8-55) the Israelites were commanded to set aside every fiftieth year, to be called the year of jubilee, in which, among other things, all persons held in bondage were to be set free. Afro-American slaves and freemen likened Emancipation to the Jubilee. Cf. Lerone Bennett, "Jubilee," Ebony, February, 1972, pp. 37-46.

[48] Cf. Exodus 3:7

[49] Emancipation Day Oration, printed in the Elevator, January 3, 1868.

sea of carnage and blood.[50] In an address before a public meeting in San Francisco, 1865, P.A. Bell dubbed the slain President Lincoln the "Moses of his age".[51] Ezra Johnson, possibly not willing to confer so high an honor on Mr. Lincoln, said that "God has been our leader, and we have passed through the Red Sea, and now rejoice that Canaan is in view."[52]

The notion of black Californians that God was especially committed to the cause of the oppressed possibly grew out of a prior affirmation that arbitrary constriction of the human body and mind was contrary to the nature of reality. This affirmation, in turn, was seemingly the result of the interplay of faith and instinct, each mutually informing the other. It seems reasonable to contend that blacks' desire to maintain an unfettered existence was not contingent upon a faith affirmation but rather existed independent of any faith. Blacks expressed the belief that written into the essence of the natural order was the imperative to freedom - both to have it and to permit it. But looking "... through nature up to nature's God",[53] they saw Him as the source of this imperative. That is to say, they felt the inner compulsion to liberty and witnessed what appeared to be the same force operative in the other entities of the natural order. Combining this observation with the tenets of the Christian faith as they received it, they concluded that He who created and ruled the universe also in-

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[50] Journal of Proceedings, p.43.

[51] Elevator, April 21, 1865, p.2.

[52] Ezra Johnson, op.cit., p.4. For some other statements by blacks on the Exodus theme and on God's influence in the War and Emancipation see the Elevator, May 5, 1865, p.2; January 5, 1866 p.2; January 31, 1868, p.2; January 29, 1869, p.2; February 26, 1869, p.1; Proceedings, Fourth Convention, p.8.

[53] Journal of Proceedings, p.11.

stilled and validated in His creation the will to freedom. So blacks spoke of the freedoms for which they fought as the "rights of God to man".[54] The Colored Convention of 1865 published an "Address...to the People of California" which declared that blacks were "freemen by creation".[55] P.A. Bell answered a white newspaper editor's attack on the validity of giving blacks full rights by stating that no rights could be granted to blacks which were not already their natural, "God given" rights. Shameful to say, continued Bell, those rights which had been "restored" by the nation came only under "God-scourging" [the Civil War].[56] And the Rev. J.J. Moore, speaking of the elective franchise for blacks, claimed it was a God-given right; God demanded that it be conceded, he said, and He would reap judgment on the nation until it was given.[57] Thus, the Judeo-Christian tradition was the conceptual framework by which blacks accounted for their instinctive desire for freedom and from which they argued the categorical validity of their claim to civil rights. The rights effort, then, was seen by blacks as a drive to bring human circumstances into line with Divine intention. Therefore it was considered to be, at root, a religious enterprise, or, as some blacks termed it, "a holy cause".[58]

Because the rights movement was viewed in this light the black churches chose to become involved in it. They willingly

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[54] Proceedings of the Second Annual Convention of the Colored Citizens of the State of California (San Francisco: J.H. Udell and W. Randall, Printers, 1856), p.13.

[55] Proceedings, Fourth Convention, p.26.

[56] Elevator, May 5, 1865, p.2.

[57] Ibid., May 26, 1865, p.3.

[58] Cf. Proceedings, Fourth Convention, p.19; Elevator, March 11, 1870, p.2.

opened their doors to the public meetings, the strategy sessions, and the civil rights lectures. They participated in fund-raising drives for the movement. It was in the churches that the Colored Conventions were held, and a great many of the colored schools were located there. When a long-fought battle was crowned with victory it was often the church building which housed portions of the victory celebration and the annual commemorations of the victory.

There is very little in terms of church records and conference minutes extant today for these black churches. Therefore it is very difficult to make any accurate statements about their involvement in the movement beyond the cooperative type, that is, making their resources available when needed. One can only surmise on the basis of scant evidence. The minutes of the 1863 A.M.E. Annual Conference are preserved in full. This body focused its deliberations mainly on matters relating to the state of the Church and its progress in membership and evangelism. In terms of subjects not directly related to the Church, the Conference resolved to give support and encouragement to the Pacific Appeal; this was possibly out of recognition of the role of that news organ as a vital communication channel for black people. The Conference also adopted a report on the State of the Country which cheered Emancipation and Union war victories and pledge unreserved assistence in putting down the Rebellion.[59] Beyond this the Conference embarked upon no social action. This apparently was true of each of the Conferences. Their annual meetings were noted in the Elevator, the Advocate (Methodist organ) and the Pacific (Congregational organ),

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[59]Cf. Journal of Proceedings, p. 22.

but never is their mention of concrete social action proposed or taken.

Black Baptist churches in the State were usually affiliated with the state-wide Baptist associations. In the minutes of the associations there is no recorded instance of blacks themselves raising issues of social justice for blacks.[60]

The situation at the congregational level seems to have been the same: there are no indications of public positions taken, confrontations with civil and authorities, memorials to legislative bodies, or the like. Further research may reveal activities not now perceived, but based on present evidence it appears that the black clergy, when meeting in official church bodies, concerned themselves primarily with strengthening the denominational organization and with the advancement of Christian piety.[61] If this was so, it may have been because the clergy who headed the congregations and who comprised the associations attached a degree of importance to religion and piety in the lives of men which caused these subjects to warrant concentrated attention in their own right - social action not deemed unrelated to church business but not allowed to denigrate its transcending importance. Such an approach is suggested in the words of A.M.E. Elder Mitchell in the 1863 Annual Conference: "Without Jesus we can do nothing".

One sees a different picture when the black clergy are observed outside of the associational structure. They not only

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[60] Cf. Minutes, Sacramento Valley Baptist Association, and San Francisco Baptist Association.

[61] This was true of the white clergy also, judging from the fairly complete files of their State association minutes.

cooperated with the black rights movement but were visibly active in it from its inception. This was in accord with the national pattern. Among slaves it was the preacher who often acted as liason between the master and his fellow blacks, securing for them whatever favors and concessions he could obtain from the master. It also was sometimes the preacher who encouraged and led resistence and revolt among slaves. In the community of free blacks, the preachers served much the same functions. Being free their range of possible activities was much greater. They were the most influential figures in the black community and their names were prominent in the list of nationally-known black leaders. Their number included such names as Charles B. Ray, Daniel A. Payne, Samuel R. Ward, Alexander Crummell. On the local level they took the oversight of black peoples' spiritual life and social standards. On the larger scene they fought in black and white protest groups against slavery, disfranchisement, colonization, education proscription, and other racial injustices. Following the Civil War, black clergy held a number of seats in the Reconstruction governments; one, the Rev. Hiram R. Revels, served as U.S. Senator.[62] The California black community saw their black clergy as a locus of real power. A delegate to the 1857 Colored Convention, Thomas Duff, said in a Mirror of the Times article that there should be preachers in every town because an intelligent clergy could exert a vast influence.[63] P.A. Bell ascribed much importance to the A.M.E. Annual Conference of 1863 and noted that its clergy "...represent a large constituency

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[62] Cf. Woodson, History of the Negro Church; Leon F. Litwack North of Slavery (Chicago: The University of Chicago Press, 1961), Chapter 6.

[63] December 12, 1857, p. 2.

and wield a powerful influence." Black clergy were conscious of both the power and the responsibility which attached to their pulpits. In a letter to the Appeal, the Rev. J.B. Sanderson touched on this point, saying that much of the elevation of black people depended on the pastors; he urged them to redouble their efforts in the rights struggle.[64] A similar sentiment was expressed by the Rev. Moore. Moore pointed out some of the things necessary for black elevation to independence, such as land and education. Then he said,

> "Our clergy must deeply interest themselves on these subjects, if they would be the leaders of our people, which they are. From their position they exert an influence on the young and the old; hence they must be the guardians of our people's spiritual and temporal interest in a great degree. Let us, under God, be united on this subject, and put forth our mightiest efforts to possess our people of religion, education and land." [65]

The black clergy contributed on every level of the effort for black elevation. From their pulpits they occasionally preached on this theme, as, for instance, the Rev. Hillery's sermon, "The Present Wants of the Colored People", or the Rev. Moore's sermon, "The Common and Particular Duties of the Colored People to Raise Us to the Social Eminence of the Favored Classes." [66] The clergy sometimes stepped from pulpit to podium to lecture on matters affecting blacks, as in the A.M.E. Bishop J. Campbell's address on "The War and Its Issues" and Moore's lecture, "The Rights of the Colored Man in the United States, as a Man a Citizen, a Race, and a Christian."[67] Even more frequently did the

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[64] Appeal, November 18, 1871, p.2.
[65] Elevator, November 27, 1868, p.3.
[66] Elevator, April 22, 1870, p.2; May 5, 1865, p.3.
[67] Ibid., April 7, 1865, p.2; September 8, 1865, p.2.

clergy take to the columns of the black news journals to appeal for black rights, to arouse blacks to action, and to answer the anti-Negro slanders of whites.[68] Moore even established a paper of his own, the Lunar Visitor, which he declared to be devoted to "...the elevation of our race."[69]

The Black clergy did not confine their input to the rhetorical. When the leading black men of the State gathered to formulate plans for concrete action toward black rights, the clergy were there among them; it was the Rev. Sanderson who called to order the first of the Conventions, in 1855.[70] They were active in the floor debates, held some Convention offices, and served on the various committees, including the important Business Committee. For instance, the Rev. Fielding Smithea was elected one of four vice presidents at the First Convention; Sanderson was Secretary. Messrs. Ward and Moore were appointed to prepare an address to the State's blacks citizens on the importance of sending their children to school where possible; Sanderson was selected for the State Executive Committee, which was to coordinate the rights activities across the State. At the Second Convention the Rev. Thomas Detter served on the Business Committee and Sanderson was again appointed to the State Executive Committee. The Fourth Convention delegates made J.J. Moore the chairman of the Business Committee and recording secretary of the State Executive Committee. In addition to these things, the clergy, particularly Moore and Ward, often took the convention floor to make speeches, offer resolutions, and join

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[68] See, for example, Appeal, November 8, 1862, p. 2; February 28, 1863, p. 2; Elevator, December 20, 1867, p. 2; July 1, 1870, p.1.

[69] Lunar Visitor, February, 1862, p.3.

[70] Out of approximately fifty delegates at each Convention there were six ministers at the First (1855), eight at the Second (1856), and six at the Fourth (1865). The records of the Third Convention (1857) do not include enrollment figures.

debates. At the Education Convention of 1871, Sanderson was chosen as vice-president and the Rev. J.H. Hubbard as secretary.

On the local level the clergy were just as active. For example, a meeting of San Francisco blacks appointed the Rev. Fletcher to a committee to draft a public position statement on the Negro suffrage issue. In Sacramento, the black citizens in 1865 elected the Rev. Hubbard to the presidency of the Sacramento Executive Committee (the local counterpart of the State Executive Committee). And the Revs. Ward and Flowers were elected to San Francisco's Executive Committee for 1866. The platform which the San Francisco delegation carried to the Fourth Colored Convention was apparently the joint production of San Francisco's clergy. According to P.A. Bell, the clergy came to the delegate-selection meeting with a prepared program which they alledgedly ramroded through.[72]

There was still more variety in the efforts of black clergy on behalf of black rights. J.B. Sanderson and P.W. Cassey brought the forces of the law to bear to secure the release of some blacks in Stockton and San Jose who were being held in slavery contrary to California law.[73] When some California blacks in the late 1850's began to despair of ever attaining justice in the State, J.J. Moore was among the primary proponents of emigration to a place of greater opportunity, and he was among the leadership of those who went.[74] And the Revs. Ward and Cas-

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[71] Cf. Proceedings First, Second, Fourth Conventions, passim; Appeal, November 25, 1871, p.2.

[72] Elevator, June 2, 1865, pp. 2,3; January 26, 1866, p.2; October 6, 1865, pp. 2, 3.

[73] Delilah Beasley. Negro Trailblazers of California (Los Angeles: n.p. 1919), p. 92.;

[74] See Chapter II, pp. ; Peter Cole, "Cole's War with Ignorance and Deceit", a published lecture (San Francisco: J.H. Udell and R.P. Locke, 1857), p.13.

sey undertook to be agents for the two black newspapers, recognizing them to be essential organs of communications in the rights struggle.

However, the area in which black clergy made their most direct, most extensive contribution to the struggle was education.[75] First, they argued before blacks and whites the urgent necessity of blacks of whatever age securing the benefits of public education. Then, they initiated and chaired public meetings called to plan agitation for school rights. Often it was the black clergymen who shouldered the task of establishing day and night schools in the absence of public school facilities for blacks. They served, too, as the teachers of many of the colored schools: the Revs. Moore, Sanderson, Cassey, Jennifer, and Johnson are notable for the service they performed as educators. Black teachers, especially Cassey and Sanderson, also received high praise from public school officials for their classroom competence. Interestingly, Cassey and Sanderson also received the rebuke of school officials in 1873 for including what the officials deemed to be too heavy an inclusion of religion in the class sessions.[76] Finally, it frequently was the local black ministers who visited the colored schools at examination time and who acted with school officials as examiners.

The expected departure from the State of the Revs. Moore and Ward provided the occasion for those among whom they lived

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[75] The details and motives of this involvement are given in Chapter II.

[76] The Superintendent of Cassey's school district was dissatisfied with Cassey's opening and closing religious exercises. Sanderson was accused of "introducing sectarianism and making too long prayers". The sources do not indicate whether any direct teaching of religion took place. Cf. Elevator, December 20, 1873, p. 2; March 1, 1873, p. 3.

and worked to give testimony to how significant in the cause of black people these clergymen had actually become. In 1868 the General Conference of the A.M.E. Zion Church elected Moore to the Episcopacy and assigned him to a district in the Southeast. As the time of his departure from California approached, a reception was given in his honor by Bell, W.H. Yates, and other "secular friends", as they termed themselves, men who "...[did] not belong to any sect or church, but claim[ed] a reverence for religion and its consistent votaries...." One of those present, a Mr. N. Cook, made a statement which revealed the degree to which Moore, the ranking Zion clergyman on the coast, had become deeply immersed in the rights struggle. Cook said he believed that

> "...non-profession has as much claim in the Rev. John J. Moore as had his own church members. He was a public man and belonged to the whole community, and not wholly to any class or denomination."

Moore responded that he

> "...had always felt that while he endeavored to faithfully fulfill his ministerial duties, there were also other duties encumbent upon him as a man and a Christian - the civil and political rights of his people."[77]

The Rev. T.M.D. Ward, too, was preparing to journey eastward to the General Conference of the A.M.E. Church. At a reception in his honor, also given by his "secular friends," Ward was similarly acclaimed for his total devotion to the effort "...to raise his downtrodden and oppressed people in this land."[78] This tribute was paid to Moore and Ward on the occasion on their imminent and potentially permanent departure from California.[79] But the same would readily have been rendered to Sanderson, P.W. Cassey, Barney Fletcher, and numerous other clergy and laymen who were

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[77] The account of the reception is found in the Elevator, April 17, 1868, p.2.

[78] Ibid.

[79] Ward was elected to the Episcopacy by the Conference but was reassigned to the Pacific Coast.

constant in the black rights movement.

Thus, in every phase and on every level of the struggle for the civil rights of black Californians, the black clergy were to be found, acting as men whose innate proclivity for freedom was enlightened and elucidated in its encounter with their Christian faith. They were men who, in the oppressive conditions of the Civil War era, when hope for black folk seemed perenially to issue forth stillborn, could yet seize upon the words of the prophet Jeremiah of old and invert the question mark of his plaintive query into the exclamatory assurance that,

"There <u>is</u> a balm in Gilead
To make the wounded whole...."[80]

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[80]From the Negro Spiritual, "There is a Balm in Gilead".

Chapter II

SLAVERY in a FREE LAND

In the year 1829 the Spanish prelates in Mexico officially abolished chattel slavery in their vast Pacific coastal territory known as California. Thus, when white Americans seized this region in 1846, they found it vitually free of slaves, and most of the settlers who came intended that it should remain that way. When the first California constitutional convention was held in 1849, the delegates unaniously adopted an unequivocal anti-slavery amendment to the Declaration of Rights. The amendment provided that, "Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State."[1]

This action, however, must not be miscontrued as reflecting an ideological or humanitarian objection to human bondage. On the contrary, there were many pro-slavery men among the delegates. But, on the one hand, the men of the Convention were persuaded that a pro-slavery declaration would not be well received by the dominant Republican forces in Congress; they feared that such a stance would seriously jeopardize California's chances for acceptance into Statehood in the Union. On the other hand, the economy of California in these early years was focused on the mining business. The hopes of a rich strike had been the chief reason for the presence of most whites in the territory. It was among the miners that both the anti-Negro and the anti-slavery sentiments found their strongest adherents. For as observed by W.H. Hall,

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[1] Lucille Eaves, A History of California Labor Legislation (Berkeley: The University Press, 1910), p. 83.

a prominent figure among pioneer black Californians, white miners, seeing the tremendous potential for wealth in California's mineral resources, did not wish to see one white man with one hundred black slaves compete with an equal number of hardworking white men.[2] The miners felt that a man should take only so much of the gold as he could earn by his own labor. Hence, slave masters posed unfair competition. Nor was the fear of slave competition without provocation. Convention delegate Stewart made specific mention of several men he knew of in Maryland and Louisiana who already had in mind an excursion to California with slaves, to work them for six to twelve months with subsequent manumission. In that time the slaves could earn more for their masters in the mines than he could sell them for in the slave market.[3] And so, while some delegates may have had humanitarian or ideological objections to slavery, it appears that it was primarily out of political necessity and economic self interest that the California constitutional convention banned slavery from the institutions of the State-to-be.

In voting for the anti-slavery amendment, many delegates were expressing the will of their constituents that black people, of

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[2]"Speech of Mr. Wm. H. Hall," San Francisco Elevator, November 10, 1865, p.1. He is here recalling sentiments he apparently heard during his first years in the State in the early 1850's. Throughout the first decades of California's Statehood, Hall remained a respected leader among blacks. His prior experience in black rights agitation included work for Negro suffrage in the East during the 1840's. Cf. Rudolph Lapp, "Negro Rights Activities in Gold Rush California". Unpublished paper, found in the Bancroft Library, University of California, Berkeley, p.22. Mr. Lapp is a professor at the College of San Mateo, San Mateo, California.

[3]Marion Reynolds, "Instances of Negro Slavery in California," (unpublished paper, Harvard University, 1914), p. 4f. This paper is based on research in Hittell's History of California, Bryant's California, O.T. Schuck's Bench and Bar in California, and also the California Reports and C.A. Duniway's article "Slavery in California After 1848," in the American Historical Association Annual Report, 1905.

whatever civil condition, should be excluded from the State. From the early days of white settlement in the territory one can find this sentiment expressed in the news journals. For example, the Californian of March 15, 1848 declares that, "We desire only a white population in California.../nor do we desire/ even the importation of free blacks...." The reasons underlying this exclusionist sentiment were clearly set forth in the heated controversy which followed the proposal by delegate McCarver that free persons of color be prohibited from immigrating to the State. In the three separate debates on the issue, five arguments in favor of the exclusion of free Negroes were brought out.

First, Negroes' racial inferiority would make assimilation on terms of equality impossible. This was to be the central recurring theme of white opposition as black Californians in succeeding decades sought their rights of citizenships. Nor was this attitude unique to California, for after all, the convention delegates were men who had only recently come to the Pacific coast from all parts of the nation. Rather, the argument reflected a long-standing, widespread, presupposition of Anglo-saxon racial and cultural superiority. It was a presupposition so strong among many Americans as to rule out even the possibility of bi-racial coexistence with mutually respected civil freedoms and privileges. An illustration of this is found among the remarks of delegate Wozencraft in the California convention. At one point in the debate on Negro exclusion he rose to state that if Californians wished freedom and equality they had best keep Negroes away, for in the situation of contact "be assured the one will rule and the other must serve".[4] A large portion of white Americans seemingly

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[4]Quoted in Eaves, p. 85

desired the imputation of virtue as practitioners of the great principles of the Revolution - freedom and equality - without the moral exertion which virtue requires. They have in some instances sought to effect freedom and equality by making those categories inapplicable to certain groups perceived by them to be undesirable - 'Niggers and chinks are sub-human so they don't count'. In other instances they have sought to eliminate the opportunity for oppression and caste, as in the California Negro exclusion issue, knowing that should the opportunity exist, they had not the will to resist.

The second argument for Negro exclusion was that Negroes would degrade labor, thus discouraging more desirable immigrants from coming. It was believed that Negro competitors in the job market would settle for relatively low wages and unattractive working conditions below a level acceptable to whites. Also, the exclusion-minded delegates seemingly did not expect that blacks would be allowed to occupy any other positions in the job picture than common laborers. They feared that white men would come to associate manual labor with Negroes, and thereby honest hard work would become stigmatized, "degraded", and beneath the dignity of respectable men. So, white men would eventually become a degenerate, leisure class.

Thirdly, it was feared that the exploitation of Negro labor would result in monopolies and social inequities. The convention delegates reasoned correctly that simply prohibiting slavery would not eliminate the possibility of large-scale use of forced black labor in the mines to the benefit of a few white men. A master had only to free his slaves in a slave State on condition that they

be bound to service in California for a stated period of time as hirelings in name, though slaves in fact.

The fourth objection to a free Negro population in California was that they would be a threat to the safety of other citizens and of order in the community. This argument reflected a prejudicial view of black people which saw them as a lazy, shiftless lot whose innate barbaric tendencies prevented their being amenable to civil society.

And lastly, since Negroes were lazy and irresponsible, the added expenses of governing and supporting them would greatly increase the tax burden.

There were some delegates in the convention, such as David C. Broderick, later to become a State Senator, who argued against the anti-Negro immigration amendment because it made unfair appraisals and levied unfair restrictions against the general body of Negroes. But the mood of the convention seemed to favor the amendment and it was adopted by the committee of the whole. Yet when it came up for final vote two weeks later it lost. In the interim the feeling had spread that such an entry in the California constitution would, like an adoption of slavery, jeopardize the territory's admission into Statehood. The death blow to the amendment was the announcement by the San Francisco delegate that he had learned that his constituents would definitely reject the constitution if it contained the Negro exclusion provision.[5]

Thus, the men who convened to formulate the basic legal

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[5]Portions of this treatment of the Negro exclusion controversy are drawn from Eaves, pp.84-88. For many of the same reasons as those given in the California convention, most States had seriously considered, and many had passed anti-free Negro immigration laws. Their provisions were comparable to those in the proposed California law of 1858 (See below, pp.6-7) Cf. Leon Litwack, North of Slavery, pp. 35-36, 66-70.

guidelines for California rejected both the institution of chattel slavery and the restriction of Negro immigration into the State. But neither of these two matters would be disposed of so easily. Despite the defeat of the Negro exclusion amendment in the convention, Gov. P.H. Burnett presented a speech in the first legislative session of the new State urging passage of laws to restrict free Negro immigration. The Governor argued that Negroes must either be admitted to full rights or be excluded from the State. Slavery, he said, would soon prove an unprofitable mode of labor and hordes of manumitted ex-slaves would flock to California, drawn by her commercial and mineral attractions. White Californians would suffer from the influx and so would the immigrants, since there was no disposition to grant them full rights. Californians must exercise before it is too late their sovereign authority to restrict the settlement of any persons deemed injurious to their welfare. Such persons were the Negroes.[6]

The continuing efforts of men like Burnett for Negro exclusion, however, made no significant headway until 1858. In March of that year the effort was renewed with vigor, spurred on by increasing unemployment among ex-miners (and consequent competition with blacks for jobs) and by the contentious actions of blacks in the controversy surrounding the Archy Lee fugitive-slave case.[7] In the State Assembly, March 19, Assemblyman Warfield reported House Bill 339, "An Act to restrict and prevent the immigration to, and residence in this state, of negroes and mulattoes."[8] /sic/

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[6] Journal of the Senate of the State of California. First Session. (San Jose: J. Winchester State Printer, 1850), pp. 603-605.

[7] See below, pp. 50-57.

Amendments were made to the Act which excepted those persons who, at the time of the bill's passage, already held residence or property in the State. It was encumbent upon such persons to register their presence and obtain a certificate attesting their right to continued residence. Negroes found in violation of the act or without a fully regular certificate were subject to be fined and transported from the State to the location of their choice at their own expense. Should they be unable to pay the fine and transportation cost, the arresting sheriff would be authorized to hire the offender out for up to six months in order to raise the necessary monies.[9] Any person who gave employment (whether a steady job or a once-only shoe shine) to a Negro not properly licensed would be liable to a fine of one hundred dollars.[10] The bill, in its amended form designated number 395, passed the Assembly on April 7 by an overwhelming 45-8 margin. From there it went to the Senate for confirmation.

In the early days of April, when passage of the immigration bill seemed imminent, the blacks of San Francisco held public meetings to voice their protest and indignation. Mifflin Wistar Gibbs, a leader in the San Francisco black community, expressed his protest through the columns of a local white journal, the Bulletin. The Bulletin opposed the Assembly bill, though it favored restriction of Negro immigration and had made some slanderous remarks against black people. Gibbs responded that despite the Bulletin's claims of Negro inferiority, blacks had ad-

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[8] Journal of the Ninth Session of the Assembly of the State of California (Sacramento: John O'Meara, State Printer, 1858), p. 408.

[9] Ibid., p. 523f.

[10] "The Anti-Free Negro Bill," The San Francisco Evening Bulletin, April 2, 1858, p.2.

vanced under conditions which the editor had said would have made white men "lazy, vicious, and immoral".[11] Gibbs said he agreed with the Bulletin's editor that a sovereign people have a right to choose who shall be a part of their community, but, he retorted, this had no applicability to the black man, who was a native-born, tax-paying, supportive member of the American family, and determined to remain so. Should this bill pass, he concluded, the shame and the consequences of this oppression would be upon the Legislature and its press supporters.[12]

Notwithstanding the opposing outcry of blacks and of some major news journals, the bill also passed the Senate, which, however, had tacked on some minor amendments, requiring the concurrence of the Assembly. But that body found itself swamped with unfinished business, with the close of the legislative session fast approaching (April 26). As a result, the anti-Negro immigration bill, so strongly favored by the majority of both houses, never made it back up for consideration and thus failed to become law. The free access of black Americans to the land which held high promise of wealth and opportunity had been preserved - "saved by the bell" - from the most serious assault ever to be made upon it. It was not the last assault: in an issue of the Elevator in December, 1865 reported that an assemblyman from Tehama and Colusa offered a bill to restrict Negro immigration into the State.[13] But never again was such an effort to come so close to success.

If the desire for Negro exclusion was slow in dying, so also

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[11] Ibid.

[12] "A Voice from a Colored Man," San Francisco Bulletin, April 5, 1858, p.2.

[13] "Legislating on the Negro," Elevator, December 15, 1865, p.2.

was the desire to see chattel slavery take root in California soil. For while some white residents loathed the black man's presence, others, particularly those formerly of Southern States, argued that the best way to tap the vast mining and agricultural resources of the State was through the use of enforced black labor. Hence, in 1852, Assemblyman Peachy of San Joaquin presented a memorial to the House from a group of men in South Carolina and Florida requesting permission to settle in California with a colony of 2000 slaves to make the California rural wilderness "blossom as a rose". The memorial was referred to committee, but since the legislature had no power to grant such a request, it died there.[14]

In 1851 a movement had been set afoot to bring about a constitutional convention for the supposed purpose of amending the constitution so as to equalize the tax burden between the northern and southern portions of the State; supposedly the south was bearing a disproportionately heavy share of the load. Another suggested object of the convention was the division of the State, north and south, one portion retaining California Statehood, the other becoming a territory. In discussing the pros and cons of the proposed State division, the editor of the Pacific stated: "... we are led to believe that /slavery/ has something to do with this subject, if it is not at the bottom of it." He expressed confidence that Californians would dismiss the matter outright.[15] But

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[14] Journal of the Assembly, Third Session (San Francisco: G.K. Kitch & Co., and V.E. Geiger & Co., State Printers, 1852), p.159,160.

[15] Pacific, September 26, 1851, p.2. The Pacific, published in San Francisco, was the organ of the Congregational churches. In the early 1850's it was edited by a Rev. J.W. Douglas, with the coöperation of the Revs. J.A. Benton, S.H. Willey, and T.D. Hunt. Benton was to become a well-known figure in California religious and political life. A dormitory at the Pacific School of Religion, Berkeley, today bears his name.

in January of 1852 retiring Governor John McDougal included in his Annual Message a call for a constitutional convention. Again the Pacific opposed the measure, saying that it was "fraught with evil" because it "conceals a purpose". The editor said that Southern California's taxation was not unfair. And even if it was, changing the constitution could not help, nor did anyone expect that it would. The true, hidden reason for calling the convention, said the editor, was the question of slavery. Stating that he had kept abreast of the sinister movement, he gave a detailed account of the progress of its plans. He said that the intent to introduce slavery was frankly avowed in private circles, and he alleged that State Senator Gwin and ex-governor McDougal were implicated in the plot. The editor said he had been silent on the matter, hoping it would die, but in face of its continued vigor he took it as a duty to expose the scheme.[16]

Though not immediately successful, the backers of the slavery movement persisted; each year legislative supporters introduced bills calling for a constitutional convention. The effort apparently continued to hold some public support. The General Association of the State's Congregational churches adopted in 1854 this report of its Committee on Slavery:

> "WHEREAS, The great question of slavery is engaging the intense attention and inquiry of the churches and people of the land, and WHEREAS, we have reason to believe that many are endeavoring to involve this State in this stupendous iniquity;
>
> Resolved, That we bear testimony, earnest and decided, against this evil, and as Christian ministers shall labor in our sphere and to our ability against its encroachments

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[16] Pacific, January 16, 1851, p.2. In subsequent issues the attack on the convention plan was repeated.

in our State and land.[17]

In time it became evident to Californians that the backers of the convention plan had the legal establishment of slavery as their ulterior motive. When the plan was finally put before the voters in 1857, it failed to receive the necessary majority. So ended the last direct effort legally to sanction human bondage.[18]

While the forces of chattledom were pursuing their ill-fated design to gain official, constitutional sanction of slavery, they were also making a more successful attempt to bring that institution in through the back door. In January of 1852, State Senator Crabb introduced a bill entitled, "An Act respecting fugitives from labor and slaves brought to this State prior to her admission into the Union." Its provisions differed in no essential way from the corresponding Federal law. It provided that for a period of one year from the day of its enactment a slaveowner or his agent was empowered to seize a fugitive or obtain a warrant for his arrest from any judge or State magistrate. A certificate authorizing removal was to be granted at a court hearing. It was possible to obtain the certificate after only summary procedures since black men were legally barred from testifying in court cases where a white man was a litigant. /See below, Chapter III./ And anyone guilty of obstructing the seizure of the fugitive or aiding his

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[17] Minutes of the Eleventh Annual Meeting of the General Association of California (San Francisco: Towne and Bacon, 1867)

A strong pro-slavery mood among a sizeable portion of the State's populace is implied in the Association's statement in 1867 that in the early 1850's "...a word against slavery was a battle in earnest." Quoted from the Minutes of the Eleventh Annual

[18] Additional information on the convention and State division schemes is found in Theodore Hittell, History of California. 4 Vols. (San Francisco: N.J. Stone & Co., 1897), p.806f; Eaves, A History, pp.92-94.

escape, by intent or negligence, was subject to heavy fines and, in some cases, removal from office.

Coincident with the introduction of this bill, there developed a scandal in Sacramento, where the Legislature was now meeting.[19] The ministers of the city were invited to serve, in rotation, as Chaplains to the legislative Houses. But by a vote of 19-26 they declined. This action was possibly a rebuke to the Legislature for considering the Fugitive Slave bill; the editor of the Pacific said that "...the severe remarks, made by one of the clergymen the preceeding day, concerning the Fugitive Slave law, may have influenced them."[20] The Senate managed to obtain clergy to serve in the chaplaincy, but for months the Assembly carried on its deliberations without such services.

There was also opposition to the Crabb bill within the Legislature, from men such as Senator David C. Broderick, who feared its harsh consequences for the free black population of the State. But the opposition was insufficient to stay the easy sweep of the bill through both Houses, with only the amendment to forbid a master's enjoyment of a reclaimed fugitive's involuntary services while within California State boundaries. Thus on April 18, 1852, the Fugitive Slave bill was signed into law.[21]

A correspondent to the Pacific wrote a condemnatory article on the new bill, noting that it came down hardest on those blacks who had made verbal agreements with their masters to come to California to work for a stated time or to earn a stated sum for the master and then be free. The new law, he said, made it possible for them to

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[19] Previous to its January opening it had met in San Jose.

[20] Pacific, January 16, 1852, p.2.

[21] Journal of the Assembly, 1852, pp. 95, 146, 147; Journal of the Senate, pp.257-85.

fraudulently be returned to their former Southern States and be reënslaved. The correspondent was especially peeved that the main backers of the bill had met on "SUNDAY" [sic] to congratulate themselves on their victory.[22]

The fugitive slave law was originally scheduled to expire after one year, but the 1853 and 1854 Legislatures each extended it for an additional year. As a result, during this time the relation of master and slave had official recognition and so slavery had successfully gained a foothold. Through the period of the law's existence Negro slaves were held in bondage - even bought and sold - in the "free" State of California.[23]

The real object of the California futive slave law was not the return of fugitives, as its framers implied; few, if any, escaped slaves made their flight along the hazardous routes to faraway California. Rather the underlying motive of the law was seemingly to allow masters to reclaim and remove former slaves from the State who were brought in before 1850, the year the California's prohibition of slavery went into effect. As some had feared, the result of the law was the attempt by many whites to reclaim blacks who had rightfully gained their freedom.

It was such a fraudulent claim which brought about the first test of the law's constitutionality. A certain Mr. Perkins of

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[22] Pacific, April 16, 1852, p.2. Two accounts of slaves who had come to California under a verbal agreement with their masters for their freedom are given in Leon L. Loofbourow, In Search of God's Gold. (San Francisco: The Historical Society of the California-Nevada Conference of the Methodist Church, 1950), p. 216f.

[23] For documented cases, see Reynolds, op.cit., p.6ff. See also, Miriam Matthews, The Negro in California. A report submitted to the Graduate School of Library Science, University of Southern California, 1944. p. XIII. The Pacific printed accounts of slave masters leaving Southern ports heading to California with slaves and of masters arriving in San Francisco with blacks who were "servants" in name but slaves in fact. See the issue for April 23, 1852, p.2.

Tennessee came with three black slaves to California 1849 and allowed his bondsmen to earn their freedom. Perkins subsequently returned to Tennessee. The emancipated men made good on their freedom and by their thrift and industry acquired farm equipment, livestock, and a sum of cash. But upon word of the passage of the Crabb bill of 1852, Perkins sent an agent to retrieve his former servants, claiming that he still held ownership of them. The three men waged a determined battle to defend their freedom, carrying the case all the way to the State Supreme Court. But the keepers of that high bench gave no relief. The constitutionality of the law was upheld and the men were ordered removed to their former owner. The Perkins case set a precedent which was followed in three similar cases decided by judges in San Francisco in 1853 and 1854.[24] And there were numerous other cases with similar outcomes. Some judges rejected the claims of former owners and upheld the free status of the blacks in question. But, unfortunately, prevailing public opinion supported and encouraged a judicial priority on the right of human property over the right of black freedom. Thus, blacks who had earned their freedom and had established themselves in a livelihood continued to be remanded by the courts to whites presenting bogus claims of ownership.[25]

By 1856, change in public opinion had caused the fugitive slave law to lapse. Attempts made after this date by unscrupu-

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[24] Pacific July 2, 1852, p.2; Reynolds, p.8f.

[25] Following the passage of the federal fugitive slave law in 1850, slaveholders in the South also made an intensive effort to reclaim former slaves. Cf. John Hope Franklin, From Slavery to Freedom (New York: Vintage Books, 1969), p. 266.

lous white men to reclaim former slaves met with no success in the courts. However, the actual practice of slavery continued covertly in California for an indeterminate number of years after the lapse of the law. Isabelle Saxon, a white resident of the State from 1863-68, wrote that slaves were not only brought into the State but maintained there. She personally knew of one slaveholder. W.H. Hall told a black civil rights committee in 1866 that blacks were being brought from Mexico by their former slave masters. They arrived in San Francisco by steamer and were retained on board until the master's departure for some remote area where he kept them enslaved.[26]

Black Californians were not passively sitting by through all of this. With no political voice, the range of their options for action were limited. But they used as best they could the means available to them. They sought to conduct themselves in such a way as to contradict any false aspersions on Negro character. When proscriptive immigration laws were under legislative consideration they took to the columns of the white press (itself, generally hostile to Negroes) to defend the rights of Negroes to enter and reside in the State as other men. They also pleaded their case to individual white voters with whom they had business or social dealings. As for slavery, Negroes did what they could to expose its clandestine existence and to protest publicly against it where authorities allowed it to persist. Hall's statement mentioned above was one such effort. Another example was the public meeting of blacks in Stockton in 1857 which issued a state-

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[26]Isabelle Saxon, Five Years Within the Golden Gate (London: Chapman and Hall, 1968), p.150; Elevator, February 2, 1866, p.3.

ment condemning the holding of slaves and demanding retroactive hourly pay for the men so held.[27] And the many fugitive slave cases which arose in the 1852-58 period gave blacks a chance to move beyond verbal protest to overt action. Many a California black man escaped the cruel fate of return to bondage through the daring rescue efforts of his fellow black citizens. One observer is reported as saying that wealthy California blacks became "especially talented" in stealing away reclaimed ex-slaves; they "exhibit/ed/ a great deal of energy and intelligence in saving their brothers.[28]

The definitive judicial rejection of slave reclamation rights came in the final and most famous of California's fugitive slave cases, that of the young man Archy Lee.[29] In April of 1857, Charles A. Stovall, a white farmer of Mississippi, left his home State seeking to improve his failing health by an 18 month sojourn in California. He brought with him on his journey a young black slave, Archy Lee, as a body servant. The two settled in Sacramento. Altering his original plans, Stovall set out in January, 1858, to return by boat to Mississippi, but at the time of departure found

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[27] San Francisco Mirror of the Times, December 12, 1857, p.3. The Mirror was a black weekly newspaper.

[28] Rudolph lapp, "Negro Rights Activities in Gold Rush California," Research paper, found in Bancroft Library. These rescue efforts were similar to the activities of the Underground Railroad in the North and South, which often spirited away fugitives being pursued by their masters, especially after the passage of the fugitive slave law of 1850. Cf. Franklin, pp. 255, 260, 266.

[29] This account of the Archy Lee incident was taken from these sources: The Sacramento Daily Union, January 8, 9, 12, 27, and February 12, 13, of 1858; the San Francisco Evening Bulletin, January 28, March 5, 6, 20, and April 14; Supreme Court "In re The Petition of Stovall, Claimant, for the body of Archy, his alleged slave," by J.W. Winans, counsel; Pamphlets on California, found in the Bancroft Library, University of California, Berkeley; Eaves, op.cit., p.101; Rudolph Lapp, Archy Lee (n.p.: Book Club of California, 1969).

his servant missing. Thereupon he notified the authorities. On January 7, Archy was discovered and arrested at the Hackett House, a business establishment run by Sacramento blacks. He was charged with being a fugitive from his master. Archy claimed he was not in flight but had left the boat seeking his master. He also claimed that he did not desire to return to Mississippi.

Upon Archy's arrest, Charles W. Hackett, a proprietor of the Hackett House, obtained a writ of habeas corpus against the Marshall and Stovall, requiring them to show cause for Archy's detention. The writ contended that Archy was neither slave of Stovall nor fugitive from him and hence was illegally detained. In the hearing which followed on the writ, Judge Robinson, of the County Court, ruled that since Archy was brought to California voluntarily and escaped while in the State, he was therefore not a fugitive as defined by the 1850 Federal fugitive slave law. Further, a sojourner, differing from a traveller, had no right to remove his slave from the State. So Archy was ordered released. The editor of the Sacramento Daily Union presaged Judge Robinson's verdict, commenting that for a master to remain as long in a free State as had Stovall and yet claim his human property rights was an encroachment upon the right of a State to prohibit slavery within its bounds.[30] But no sooner had the verdict been spoken than officer O'Neill came forward to rearrest Archy, reading a writ issued by Justice Biddleman binding Archy to a trial before the State Supreme Court. For Stovall's lawyers had argued that inasmuch as Archy was a fugitive slave the matter was out of jurisdiction of

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[30] Union, January 12, 1858, p.2.

the county courts. The case was to be argued before the Supreme Court bench at a January 29 hearing.

The action of the Supreme Court in this case was a comedy of contradiction. After hearing the contentions of Stovall's attorneys and a very able argument from Archy's counsel, the Court ruled as follows: first, Archy was wilfully brought into this free State, therefore he could be considered a fugitive slave under State or federal rubrics. Secondly, the rules of comity required that the rights and privileges of a traveller's home State be respected while he is in transit through any of the several States, regardless of whether those rights and privileges were extended to citizens of those States. But Mr. Stovall had disaffirmed his status as traveller by purchasing a ranch in this State, by hiring out his servant twice, and by engaging in a business, a school, which of its nature implied permanency. Therefore the laws and Constitution of this State did not support Mr. Stovall's claim to the body of Mr. Archy Lee.

Then, like a thunderstorm from a blue sky, the court pronounced its memorable decision:

> "But there are circumstances connected with this particular case that may exempt him [Stovall] from the rules we have laid down....This is the first case and under the circumstances we are not disposed to rigidly enforce the rules for the first time. But in reference to all future cases, it is our purpose to enforce the rules laid down strictly according to their true intent and spirit.... It is, therefore, ordered, that Archy Lee be released from custody of the Chief of Police, and given into the custody of the petitioner, Charles A. Stovall."

The "circumstances" referred to included the fact that Stovall was young and may not have known the law and, given his poor health, he needed the services of his slave.

The reaction of the press to this fantastic ruling was swift

and resolute. The Sacramento Union blasted the Court for violating its own principles in its decision. The editor warned that the Supreme Court had thus opened itself to suspicion of being "supremely ridiculous" Other papers protested that California's Supreme Bench would become the laughing stock of the world. The general citizenry also responded. A group of miners composed a tongue - in-cheek "Syllabus of points decided", which included such gems as, "The Constitution never works for the first time"; "The Constitution never operates against a young man travelling for his health"; "Constitutional rules to be relaxed in behalf of the infirm and indigent"; "A man may gain all the law in the case and lose himself."[31]

This amazing decision of the State Supreme Court may be partly explainable by the fact that the leading opinion in the case was written by Justice P.H. Burnett, the same man who, in the 1849 constitutional convention, and as governor in 1850, had worked so vigorously for anti-negro legislation. And one of Burnett's associate justices in the Archy case was D.H. Terry, a Southerner of pro-slavery sentiments.

On the day following the trial Stovall moved Archy from Sacramento to Stockton, pending an imminent departure from the State. A heavy guard was secured for the Stockton journey so as to prevent escape or rescue. Meanwhile, the word spread among San Francisco blacks that Stovall planned to secret Archy away via steamer out of San Francisco. They prepared, then, to make a last ditch effort to preserve Archy's freedom. James Riker, a black, secured a habeas corpus writ which said that Archy was being il-

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[31] Eaves, op.cit., p.101.

legally held aboard a steamer in San Francisco Bay which was now about to sail for Panama. The writ required that Archy be turned over to the authorities. It claimed that Stovall had removed Archy to his present confinement in order to evade a similar writ issued in San Joaquin County. Riker also filed a complaint of kidnapping against Stovall.

The San Francisco blacks had reason to believe that Stovall would seek to effect his departure on the morning of March 5. So on the night of the 4th, fifty to one hundred of them stood watch over the wharves and the up-river steamers, especially the one from Stockton. They did not intend to seize Archy illegally, but only to insure that he was not spirited away before they had a chance to serve their writ. A law officer bearing the writ was nearby all night. In addition, officers were to accompany all the steamers outside the Heads, in case Archy was on one of them. On the morning of the 5th, it was discovered that Archy was on the steamer Orizaba, which was already under way. The officers overtook the boat and served the writ for Archy's and Stovall's arrest. At first, Stovall and his men drew pistols in defiant refusal. But realizing the futility of this action, they submitted.

Shortly after Archy was arrested, notices of a public meeting of black citizens were posted in the Athenaeum and other places which blacks frequented. The meeting was to be at 8:00 p.m. the following Friday at the First A.M.E. Zion Church [Hereinafter this San Francisco church will be referred to as First Church or Zion Church]. [32] By 7:30 on the appointed evening the sanctuary was

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[32] As usually happened, the church allowed its facilities to be used for this public meeting, though it did not sponsor the meeting.

already full, with a number of interested whites among the black audience. Peter Anderson, a recognized black community leader, was chosen as chairman. He stated the object of the meeting as the devising and adopting of all legal means of resisting the encroachment of the slave power into free California and the deportation of free citizens into slavery. He told the meeting that a fund was necessary to pay the expenses of the upcoming court battle on Archy's behalf. A motion by the Rev. John J. Moore, pastor of Zion Church, and a prominent black leader, calling for a seven-man collection committee was passed.[33] Resolutions requesting the colored churches of the city to take a special offering for the fund the following Sunday were amended to read "Christian" churches, and passed in that form. Mr. Moore, Mifflin w. Gibbs, Congregationalist minister Joseph H. Benton (white), and others addressed the group, counseling against any violent action by the people as it might prejudice the case against their interests.

The fund-raising campaign was a notable success. Blacks begged, mortgaged their homes, and gave concerts and benefits in their churches to raise the money for trial expenses. In all, $50,000 was raised for the cause. And on March 20, the case came up before U.S. Commissioner George Pen Johnston, with lawyers Hardy and James

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[33] J.J. Moore was born of slave parents in West Virginia in 1818. In 1833, after his parents escaped their bondage, Moore was converted to Christianity and two years later received his license to preach. He became a member of the Philadelphia Conference of the A.M.E. Zion Church. In 1852 he sailed to San Francisco, where he organized First Church. Moore proved to be one of black California's outstanding leaders, as later chapters will show. Cf. David Henry Bradley, Sr., A History of the A.M.E Zion Church [sic] 2 Vols. (Nashville: The Parthenon Press, 1956 - Vol.I, 1970 - Vol.II), Vol.I, pp.162-67; Vol.II, p.38.

appearing for Stovall, and Baker, Crosby, and Thompkins for Archy. After some three weeks, Commissioner Johnston delivered a long opinion in which he concluded that Archy was not a fugitive but was voluntarily brought into the State. And since Stovall, after arriving, hired his servant out and, himself, went into business, thus relinquishing his in transitu status, the court had no choice but to order the release of Archy Lee from custody.

The blacks of the State were elated. While the defeated Stovall wended his way through the Golden Gate, the rejoicing blacks of San Francisco held a victory celebration at Zion Church. In exhuberent voices five hundred strong they raised a joyful song which recounted some of the events and figures in the triumphant struggle:

"Sound the glad tidings o'er land o'er sea
Our people have triumphed and Archy is free!
Sing! for the pride of the tyrants is broken:
The decision of Barnett /sic/ and Terry reversed.
How vain was their boasting - their plans so long broken;
Archy's free - and Stovall is brought to the dust,
Praise to the judges and praise to the lawyers!
Freedom was their object, and that they obtained.
Stovall was shown it was time to be moving.
He left on the streamer to lay deeper plans.
But there was a Baker, a Crosby and Thompkins
Before Pen Johnston and did plead for the man."

The refrain of another hymn penned for the occasion was likely ringing gleefully in the hearts of the California black community as the thwarted Mississippi farmer sailed away:

"The year of Archy Lee is come:
Return, ye ransomed Stovall, home."[34]

The black California historian Delilah Beasley was correct when she wrote that it was not for Archy, alone, that the massive battle was waged; blacks realized that if Stovall were allowed to remove

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[34] The words of the songs are quoted from Rudolph Lapp, Archy Lee, p.6.

Archy, then they, themselves, might one day be reclaimed to slavery by a white man presenting contrived affidavits. The Archy case was thus pursued as a test case of the rights of all blacks to live as secure free men in the State of California.[35]

The success of California blacks in prosecuting the Archy Lee case was not without its negative reverberations. Many whites grew disturbed by the initiative which blacks were taking in the matter; the fear was that the black man was becoming too uppish, to assertive. A bill to ban free Negro immigration to the State was already under legislative consideration when the Archy case came to public light. The "imprudent actions" of the blacks caused attempts by legislators to add severly restrictive amendments to the bill.[36] This reaction by whites was simply the latest in a long chain of repressive measures, dating from the constitutional convention, designed to deny to blacks access to the bounty of California and to reduce her current black residents to a state of virtual, or actual, slavery.

The seemingly unyielding obstinance of white Californians in granting to blacks the rights and privileges of citizenship led many blacks to consider the feasibility of mass migration from the State. Dr. Ezra Johnson, a black herb doctor of San Francisco, advocated Sonora, Mexico, as a good settling place. Others, such as J.J. Moore, favored Vancouver Island, British Columbia.[37] Significant inducement to make the contemplated move was provided

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[35] Delilah Beasley, Negro Trailblazers of California , p. 82.

[36] State Executive Committee, "Address to the Colored People of the State of California". (Sacramento: n.p., 1859), p.10.

[37] Though Moore was active in the emigration movement there does not appear to have been an official church position advanced on the subject.

when gold was discovered on the Frazier River in British Columbia; officials there invited Californians, black and white, to come mine the mineral and fill the many jobs left vacant by those who had deserted them in search of gold. With proscription and abuse disposing them and the prospect of a better life enticing them, hundreds of black Californians answered the call.

In April of 1858, the Pacific carried this short notice:

> "It is understood a party of colored people has been made up in this city to emigrate to Vancouver Island and the gold mines on Fraser's River. The emigrants are quiet, industrious persons, and generally in good circumstances."[38]

It is curious and disappointing that this Church paper which had been the first to expose the plot legally to establish slavery in California had no comment on the departure of black Californians or on the reasons for their leaving. At a meeting in San Francisco, May 11, of the emigrating blacks, a preamble and resolutions were adopted, a portion of which the Pacific published with no other comment than that "...they express an elevated sentiment, worthy of any class of men." Following are some excerpts:

> WHEREAS [sic], We are fully convinced that the continued aim of the spirit and policy of our mother country is to oppress, degrade, and outrage us; we have therefore determined to seek an asylum in the land of strangers, from the oppression, prejudice and relentless persecution that have pursued us for more than two centuries, in this our mother country.
>
> Resolved, that we will take pleasure in pleading our allegiance to that country where we can aspire to the highest state of social enjoyment and respectability, that intelligence, morality, religion, industry and wealth can raise men.
>
> Resolved, That in migrating to British Columbia territory, our principles and continued aim shall be to promote intelligence, Christianity and industry, which never fail to secure prosperity to any country, and happiness to a people.
>
> Resolved, That we advise our people in their migrating to this God-sent asylum for the oppressed colored American,

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[38] Pacific, April 22, 1858, p.2.

> to immediately invest some of their spare captial in land.
>
> Resolved, That...with out hearts filled with gratitude to the Great Ruler of the Universe, who has provided this refuge for us, we pledge ourselves to this cause...."

Apparently the emigrants planned to remain together as one community in their new land, for a committee of seven was appointed to draft a constitution.[39]

The loss of these men and women was deeply felt by those remaining behind because the emigrants included some of the ablest black leaders, men like Mifflin Wistar Gibbs, and the Rev. John J. Moore. Later years found some of these men still in British Columbia, others in successful situations in the East, and still others, such as Mr. Moore, back in California.[40] But the majority of California's black population determined to take their stand in the Golden State and fight for the "equality before the law" which they knew to be the rightful heritage of native-born American citizens.[41]

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[39] Pacific, May 20, 1858, p.2. No further notice was given the event in this paper.

[40] Mifflin Gibbs went on to become U.S. Consul to Madagascar and later a municipal judge in Little Rock, Arkansas. Cf., Shadow and Light, front cover sheet. While in the South, Gibbs gained the admiration of one of the most famous of Americans, Booker T. Washington, who wrote the introduction to Shadow and Light.

[41] The quoted phrase was later to become a slogan of the California civil rights movement.

Chapter III

In SEARCH of SELF-DEFENSE

> "If I have a claim of $100 against a white man, and bring an action for its recovery at law, unless I have a white man who possesses the moral courage to come forward and endure the odium of a miscontructed society, and testify in my behalf, I lose my suit, and am scarcely exempt from the indignity of being kicked out of court."[1]

The above statment, made by the black Rev. D.P. Stokes (A.M.E.) in an 1855 California civil rights convention, points up a crucial issue facing California's black pioneers, namely, the question of whether they could enjoy with other citizens the right to full access to the judicial process in defense of their persons and property. The California State Legislature had answered the question in the negative by the passage of two pieces of legislation regarding the court testimony of ethnic minorities. One of these, Section 394 of the 1851 Civil Practice Act, dealing with "Witnesses-Persons incompetent", provided that, "No Indian or Negro, or persons having one-half or more Indian blood and Negroes or persons having one-half or more Negro blood, shall be allowed to testify as a witness in action in which a white person is a party." The other, Section 14 of the 1850 Criminal Practice Act, declared that, "No Black or Mulatto person or Indian shall be allowed to give evidence in favor or against a white man." These statutes were amended and enlarged in 1854.[2]

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[1] Proceedings of the First State Convention of the Colored Citizens of the State of California (Sacramento: Democratic State Journal, Print [sic], 1855), p.19.

[2] The Statutes cited here are quoted in Delilah Beasley, The Negro Trailblazers of California, p.56. See also Statutes of California. Fifth Session, 1854. (Sacramento: B. Redding, State Printer, 1854), p.59. By this time most States had enacted laws denying blacks the right of court testimony against whites. Cf. Litwack, p.35.

In November of 1851, the Pacific, which had exposed the plan to legalize slavery, also came out against the testimony laws, saying they were foul and ought to be repealed. The editor argued that they were unfair and would even backfire on whites when the only witness to a crime against a white man was an Indian. He said that the veracity of Indian and Negro testimony should be left up to juries to determine. The editor reproduced a letter from a Los Angeles reader which agreed with his position. The author denounced the law as ridiculous and unjust to Indians and Negroes. He cited examples of whites who had openly murdered Indians and gone unpunished for lack of white witnesses to testify. The true absurdity of the law, he said , was seen in the fact that a member of the present Legislature (unnamed) had Negro blood; if he were robbed he couldn't even testify in his own behalf, his high political office notwithstanding.[3]

The circumstances of black life in California at this time made the proscriptive testimony laws even more burdensome than one might initially suspect. Apart from the fear of unredressed personal abuse was the larger concern over the potential for loss of freedom which the testimony laws represented. Taking advantage of California's fugitive slave law, many a white master attempted fraudulently to reclaim into slavery black men who had legally been freed. And one of the chief facilitators of these deceitful schemes was the inability of the victimized black man to testify in his own behalf. And then, in this era of the gold rush, many black Californians had large investments tied up in mining claims

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[3]Pacific, Novemer 21, 1851, p.2.

and equipment.[4] Those who chose other vocational paths were achieving reasonable success in small business and agriculture. But without the unlimited right of court testimony, all of these gains stood constant prey to any white man who might raise a false claim upon them.

The passage of the testimony laws, therefore, placed at stake the basic rights of black Californians to life, liberty, and property. It was around the encompassing issue of court testimony that blacks in the Golden State centered a protracted struggle of some 12 years duration.

In his autobiography, Shadow and Light, black pioneer Californian Mifflin W. Gibbs wrote that he and a group of black associates caused quite a stir in San Francisco when they published in an 1851 issue of the Alta California a protest against being disfranchised and denied court testimony.[5] This was apparently the first such public outcry raised by blacks. But far from being the last, a much larger protestation was soon forthcoming. In that same year, blacks in cities throughout the State had begun holding public meetings on the subject of their judicial rights. Then in 1852, some blacks residents of San Francisco organized what was known as the Franchise League. The League attempted to channel the unorganized black discontent into a concerted, State-wide petition drive aimed

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[4]For example, by 1856, the 500 Negroes of Nevada county held some $300,000 in mining investments. Cf. Proceedings of the Second Annual Convention of the Colored Citizens of the State of California. (San Francisco: J.H. Udell and W. Randall Printers.), p.8. The total California Negro wealth in 1855 was some $2,413,000 according to Proceedings of the First Annual Convention of Colored Citizens of the State of California

[5]Gibbs, Shadow and Light., p.47. He also tells of an incident in which white men defrauded merchandise from his shoe store and then beat his partner, John Lester, for insolence when he objected to the fraud. Without the right of testimony there was no certain legal redress for this kind of abuse.

at influencing the State Legislature to repeal the proscriptive testimony laws.[6] On March 22, 1852, the testimony petition, bearing both black and white signatures, was presented to the Assembly by Assemblyman Canney. Thereupon Assemblyman Hammond offered the following resolution: "Resolved, That the House, having heard the petition read, do decline to receive or entertain any petition upon such subject from such source." In the vote which followed, the resolution passed 47-1, with a Mr. Hinchman, not Canney, casting the single negative vote; Canney offered no explanation for his seemingly self-contradictory vote.[7] Unswayed by this initial failure, the League again mounted a petition drive in 1853. The response of the 1853 Assembly was even more pronounced. One member of the Assembly demanded that the petition be thrown out of the Legislative chamber window. Another objected to tarnishing the Assembly Journal with such a document. The action finally taken on the petition was to summarily reject it.[8]

But the far-reaching significance of the testimony issue was too keenly felt by blacks for the movement to be daunted by even this second rebuff. For the courts were continuing to make it clear beyond doubt that the law was to be thoroughgoing in its prejudicial bent against non-whites. For example, Chief Justices J. Murry and J. Heydenfelt ruled in an 1854 case that words used in the law such as Indian, Negro, black, and white were generic terms designating races and that the intent of the law was that all non-white persons were banned from being witnesses in cases

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[6] Rudolph Lapp, "The Negro in Gold Rush California", Journal of Negro History. Vol. XLIX, No. 2, April, 1964, p.95. Cf. Lapp, "Negro Rights Activities", p.9f.

[7] Journal of the Assembly, 1852, p.395f. The Pacific reported, with no comment, the rejection of the petition. Cf. April 5, 1862, p.2.

[8] Beasley, Negro Trailblazers, p.55.

to which whites were party. Thus, the Chinese were understood to be included, though not specifically mentioned.[9] And in an 1855 case, a Judge McAllister ruled inadmissable the testimony of a black sailor who had witnessed the murder of a white sailor.[10] With decisions such as these being rendered, there was an ever-increasing urgency to continue the fight.

Furthermore, there was support and encouragement for these West Coast protesters in the activities of blacks toward the same ends in other parts of the nation. Peter Anderson, a respected leader among black San Franciscans, reflecting in later years on the early protest, said that part of the immediate impetus for the California protest movement came from the resolutions adopted by the National Convention of Colored Citizens, held in Rochester, New York, in 1853.[11] He said,

> "The resolutions being read and approved by a public meeting, held in the St. Cyprian Church in this city, in 1854, inspired the hearts of Mr. Collins and all the early colored residents of San Francisco, to go to work and battle also for equal rights in California."[12]

Consequently the work did continue and the battle intensified. There had begun in San Francisco in 1853 a black literary society known as the Athaeneum Library Company. The society was dedicated to intellectual and moral development through reading and debate among its members. But the talented black men who composed the society perceived that the edification of their minds was pointless unless it somehow bore tangible fruit in terms of the social liberation of

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[9] Beasley, p. 59.

[10] Proceedings, First Convention, p. 11.

[11] The underlying motivations for the movement, which drew heavily upon religious understandings, were discussed in Chapter I. For further information on the National Convention, see Aptheker, A Documentary History, p. 341ff.

[12] Elevator, July 25, 1874, p. 2.

black men and ultimately all men. Thus, prominent in their discussions was the question of how to effect the repeal of the oppressive testimony laws. At a September, 1855, meeting of the society, it was decided that the most productive course for the movement would be to bring together the best black minds in the State to pool their ideas on the solution of the problem. A call was then issued for a State Convention of black delegates from each county, to be held in Sacramento, November 20, 1855.[13]

On the appointed day forty-nine delegates from ten counties assembled in the black Methodist Church (the present day St. Andrews African Methodist Episcopal Church).[14] The delegates were men of many and diverse backgrounds and vocational pursuits, including seven members of the clergy. Some were ex-slaves, others had never seen bondage but rather had come from a life of relative ease in the East. All had been chosen by their fellows as men of ability and integrity.

The Convention was called to order by the Rev. Jeremiah Burke Sanderson, educator and A.M.E. preacher from Massachusetts.[15] Its stated aims were, first, to consider petitioning the Legislature for the Negro's right of testimony in court; second, to adopt plans for the general improvement of conditions for blacks in the

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[13] Appeal, April 12, 1962, p.2.

[14] The account given here of the Convention was taken from Proceedings, First Convention, p.3.

[15] Sanderson came to California in 1854 from New Bedford, Massachusetts. His family joined him on the Coast in 1859. In his Eastern home he worked as a hairdresser. He was an actice abolitionist and lectured much for that cause, sharing platforms with such names as William Lloyd Garrison, Frederick Douglass, and William Wells Brown. Cf. Rudolph Lapp, "Jeremiah B. Sanderson: Early California Negro leader," in Journal of Negro History, Vol. LIII, No. 4, October, 1968, pp. 321-23. William Wells Brown includes a very complimentary sketch of Sanderson in his book The Black Man (New York, 1863), pp.91-92.

State.[16] In the opening moments, remarks were offered by several delegates which set the tone for the deliberations in the days to follow. The Rev. John J. Moore made the declaration that, "We are Americans - Colored Yankees - and we are as proud of the soil of America as they who boast loudest of their love."[17] This theme, recurrent throughout the 19th century civil rights struggle, both in California and nationwide, expressed the belief of American blacks that they were not interlopers or foreigners trying to arrogate to themselves rights and privileges to which they owned no claim. Rather, the firm conviction was that by their birth on American soil, blacks had secured American citizenship; by their labors in and out of bondage they were contributing their dues to the national prosperity; by their valiant participation in the nation's defense in each of its previous wars they had demonstrated their loyalty. Therefore claiming America as the only home which they knew and the place in which they held valid citizenship, blacks claimed also the rights and protections extended in common to all citizens.[18]

Whereas Mr. Moore's remarks related to the justification of the Convention and the rights movement, W.H. Yates, also of San Francisco, offered some practical direction for the Convention's work. He said, "We are to know but one purpose - act together for the attainment of one object".[19] This singleminded approach advocated by Yates was adopted by the Convention and remained a characteristic of the civil rights movement. The idea of the ap-

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[16] Proceedings, First Convention, p.3.
[17] Ibid, p.5.
[18] Cf. The San Francisco Mirror of the Times, August 12, 1857, p.2; Elevator, March 30, 1866, p.2; January 3, 1868, p.2.
[19] Proceedings, First Convention, p.5.

proach was that the brunt of the movement's energies and resources were to be focused on the one issue judged to be the most crucial to the overall welfare of the State's blacks. Once that issue was resolved then the issue of most importance at that time would be confronted. Other problems which vied for attention could be addressed by indivduals and local groups. But the organized, Statewide effort was to fight one battle at a time. In this way the already meagre black forces and resources would not become bogged down or spread too thin. On the basis of this focused approach the Convention declined to accept a resolution offered by the Rev. T.M.D. Ward aimed at curbing intemperance; this issue was considered outside the scope of immediate business.[20]

The first order of business before the Convention was the selection of officers and committees. W.H. Yates was chosen President. Four vice presidents were chosen, one of which was the Rev. Fielding Smithea, an A.M.E. local preacher. Smithea was also appointed to the Business Committee. Three secretaries were also chosen, of whom J.B. Sanderson bore most of the responsibility of recording and compiling the Convention's minutes. J.J. Moore was made Chaplain, whose duty it was to structure and conduct devotional exercises for the delegates. Each session - morning, afternoon, and evening - during the three days of the Convention

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[20]Ward was the A.M.E. Missionary Elder in charge of all A.M.E. congregations on the West Coast. He arrived in 1854 from New Bedford, Massachusetts. He was influential in J.B. Sanderson's decision to come West. One historican of the A.M.E. Church, George A. Singleton, wrote of Ward that "...he has been regarded as the greatest preacher the Church ever produced. Like most men of his day, he was not a product of the schools...he was a natural orator." The Romance of African Methodism (New York: Exposition Press, 1952), p. 36f.

opened and closed with such exercises. These were usually composed of varying combinations of Scripture reading, prayer, and hymn singing.

The bulk of the Convention's time was taken up in discussing and acting upon committee reports. The most important of these, in terms of the stated objects of the Convention, was that of the Business Committee. The report of the committee contained a series of resolutions setting forth a strategy for a state-wide organized move against the testimony restrictions. In the form finally adopted by the Convention, the resolutions stated that:

1. the ensuing Legislature, to convene in January, would be petitioned for the abrogation of those portions of the State laws barring Negro testimony in court actions involving whites.[21]

2. a "State Association" would be organized, with auxilliaries in every county to collect statistical data on black conditions and progress, and to encourage education and proper counduct in relations with whites.

3. a contingency fund of 20,000 dollars would be established to be used in the prosecution of the testimony cause.

4. a State Executive Committee would be appointed, whose task it would be to administer the program of action adopted by the Convention.

5. a deep regret and disparagement was felt by the delegates over the apathy and timidity of California Negroes in the matter of agitating for their rights.[22]

In line with this report, it was moved and passed that persons from each county be appointed to circulate petitions. It was also agreed that the State Executive Committee be composed of men from San Francisco, Sacramento, and Marysville /the major centers of

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[21]The Convention concerned itself with only the restrictions on Negro testimony, laying aside the restrictions against other ethnic minorities. See pp.88-90, 126-27, for discussion of this focus on Negro rights.

[22]Report of the Business Committee. Proceedings, First Convention, pp.9-15.

black population in the State at that time7.

The program of action adopted by the Convention was not a radical departure from the efforts already afoot in the State but only a refinement of them. There was now a State-wide structure to carry on the effort and an administrative body to oversee it. The principal mode of direct attack remained the petitioning of the Legislature. This was to be supplemented by an attempt to influence public sentiment in favor of black rights by respectable demeanor in contacts with whites. If the public mood could be changed, then, hopefully, the Legislature would respond accordingly.

One striking feature of the Business Committee's report was its criticism of the California blacks' laxity in fighting for their rights. This charge was to be leveled again and again in the ensuing two decades as the general black populace of the State continued to vacilate in the amount of support given to those men chosen to lead the advance toward the privileges of citizenship. The lethargy may have been reflective of the predicament of socio-economically distressed groups of people wherein they find themselves torn between the exigencies of day-to-day survival and the necessity of participating in organized, long-range action toward the permanent relief of their distress. In this dilemma, it is common for the claims of the former to overshadow those of the latter. It appears that this was often the case with the black community in the early decades in California.

One of the final actions taken by the Convention was the approval of a proposal to study the feasibility and mechanics of establishing a paper for the use of the Convention. The State Executive Committee was given the oversight of the matter, including the task of providing for the publication of the paper if it proved

practicable.[23] During the two years previous to the Convention some blacks in San Francisco had given serious thought to the idea of establishing a newspaper. The desire was for an organ which would fight for the repeal of the anti-Negro laws and combat the slanders and charges of inferiority hurled at blacks by whites. Though the idea was not realized at that time, its chief proponent, a Mr. William H. Newby, was also the person who brought the matter before the Convention and helped to secure that body's support for it.[24]

Having adopted a plan of attack on the issue deemed of most urgency, the discriminatory testimony laws, and having heard some eloquent extemporaneous remarks by some of its delegates, the Convention declared its work ended. And so on the afternoon of November 22, the choir of the host church rendered an anthem ("The earth is the Lord's"), Chaplain Moore pronounced the benediction, and President Yates adjourned the Convention, sine die.

Appended to the published Proceedings of the Convention were copies of two documents which that body had commissioned to be written and circulated. One was by the State Executive Committee and entitled "An Address to the People of California". It was a simple plea for the repeal of the testimony laws so that the lives and property of blacks might be protected and that the innocent might have security and the guilty punished.[25] The Revs. J.J. Moore and T.M.D. Ward were assigned to write the other document, "An Address to Parents of School-aged Children". The address

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[23] Op. cit., p.22.

[24] Newby was instrumental in the founding of the Athaeneum Library Company mentioned earlier.

[25] Proceedings, First Convention, pp. 26-27.

stated that the education of the young was one of the first and foremost duties society owed itself. And the laws and public sentiment which deprived black parents of the chance to bear their share of this societal responsibility were slowly changing. The burden of the address was contained in the admonition that "... ignorance has been the cause, chiefly, of our sufferings. We must seize every opportunity to acquire knowledge...because 'knowledge is power'".[26] Though this Convention-authorized address dealt with the issue of education rather than court testimony it was not in contradiction to the singleminded approach of the rights movement. For these statements on education were not intended to represent a part of the Convention's organized, State-wide program of action. Instead, they were recommendations to parents for their individual and/or local action.

Seemingly the only immediate reactions of white Californians to this first organized and geographically extensive black civil rights thrust were those expressed or implied editorially in a few news journals. Mr. W.H. Yates, the Convention President, said that the Sacramento press had been friendly, treating the Convention with respect and fairness.[27] The San Francisco Evening Journal reprinted with concurrence an article from the Grass Valley Telegraph which applauded the idea of a Colored Convention and the efforts of blacks for their elevation. The article expressed the belief that black advancement was desired and encouraged by white Californians, with the exception of a few ultra Southern men and some Northerners who curried Southern favor.[28] However, this

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[26] Proceedings, First Convention, pp. 24-25. The sentence "knowledge is power", quoted in the Address, was attributed to an unspecified work of Bacon.

[27] Ibid., p. 17.

[28] Ibid., p.7.

glowing assessment of white Californians' sentiments toward the Negro was not borne out in the subsequent decades of struggle for civil rights. The Pacific took note of the Know Nothing Convention held in Sacramento in November, 1855, but it made no mention of the Colored Convention of the same month.

At the first meeting of the Convention-appointed State Executive Committee, held on January 31, 1856, county reports were received showing favorable progress in collection of funds, gathering of signatures on petitions, and forming county auxilliaries. In the ensuing month, the Committee worked dilligently against great odds to get the petition introduced to the Legislature.[29] In a letter dated March 30, 1856, the Rev. J.B. Sanderson (Secretary to the Convention) wrote to a David Brown of Marysville that petitions from two counties bearing a total of 2,100 signatures had been referred to the Judiciary Committee. Petitions from two other counties were to be presented soon. The outcome, said Sanderson, was uncertain but there were some favorable signs.[30]

However, these signs were either misread or ephemeral, for a circular published by the Executive Committee in 1859 said that the request to the Legislature for testimony rights was "treated with contempt as an insolent innovation, eliciting the most opprobrious epithets."[31] The petition campaign had failed to achieve its goal, the removal of the testimony laws. Even the act of asking for the concession to justice was called into question by the Legislature.

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[29] State Executive Committee. "An Address to the Colored People of the State of California" (Sacramento: n.p., 1859), p.7.

[30] Beasley, Negro Trailblazers, p.56.

[31] State Executive Committee. "An Address", p.7.

Stunned but not stifled by this reversal, the Executive Committee revived its efforts with a new tack: a General Agent, W.H. Newby, was appointed to canvass the portions of the State which had not theretofore participated in the civil rights effort, and arouse support for the movement. Mr. Newby held meetings, delivered lectures, and collected contributions. At the same time, the Executive Committee maintained contact with those regions already active. By its October 29 meeting, the Committee determined from its correspondence with the county auxillary committees that there was hesitance but willingness among the State's blacks to hold another Convention. So a call was issued to assemble in Sacramento on December 2, 1856.[32]

The Second State Convention bore much resemblance to the first. The location (the A.M.E. Church building) was the same; the rules of procedure of the First Convention were adopted; many of the same delegates returned, e.g., Mr. Sanderson as Secretary, Mr. Moore as Chaplain. Likewise, the program of action adopted by the Convention was very similar, almost identical in general outlines to that of the First Convention: a State Executive Committee was to be selected, the Legislature was to be petitioned, persons were named to circulate petitions in the various counties, a contingency fund was to be established. As in the previous Convention, arguments were again set forth in justification of the testimony struggle, declaring that:

> "...We claim our rights in this country, as any other class, not as citizens by adoption, but by right of birth....artificial standards of credibility depending on such tests as race /or/ color...obstruct the investigation of truth.../and/ defraud the excluded classes...subjecting them to outrage and injustice, with impunity, from the more favored classes....

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[32] Ibid., p.8. The Convention actually assembled on December 9.

> "I may see the assassin plunge the dagger to the vitals of my neighbor, yet, in the eyes of the law I see it not... and the author of the evil may go unpunished because only a colored man saw the act...Under these circumstances who are not really injured and lose by the law?...Is it not evident that the white citizen is an equal sufferer with us? When will the people of this state [sic] learn that justice to the colored man is justice to themselves?...[Furthermore] the common law...[is one of the] inestimable rights of God to man."[33]

Hence, the arguments declared that elements inherent in both the temporal and the eternal order of things demanded the equitable extension of the privileges and protections of the law to all citizens.

The Second Convention considered again the matter of operating a newspaper. The committee appointed at the 1855 Convention to determine the feasibility of establishing a state newspaper had performed that task and had actually gotten a paper into circulation; it was called the Mirror of the Times. The action taken by this Second Convention, then was to adopt the Mirror as the official State organ; it was to be underwritten from the General Fund (the contingency fund) and controlled by the Executive Committee. The paper was to be a weekly, published in San Francisco. The Convention's object in adopting the paper was to use it as a means of effecting changes in public opinion in the hope that this would result in changes in the laws.[34]

After three days of planning and programming, the Convention delegates decided that their work was done; it was time to adjourn and advance to the field to put the battle plans to the test. Des-

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[33] Proceedings of the Second Annual Convention of the Colored Citizens of the State of California (San Francisco: J.H. Udell and W. Randall, 1856), pp. 11-13.

[34] Ibid., pp. 30, 31. Cf. Appeal. June 7, 1867, p.2. and June 20, 1863, p.3.

pite the frustration of the First Convention's aims at the hands of a hostile Legislature, the delegates of the Second Convention had some cause for optimism as they viewed the prospects of the testimony struggle. For according to a letter to the editors of the Sacramento Union, many prominent and influential white Californians were beginning to publicly express favorable opinions toward Negro court testimony. The article referred to some 300 lawyers in the State who had declared their feelings that the anti-Negro testimony laws should be repealed. It said further that the report of the San Francisco County Grand Jury for December, 1856, was supportive of Negro testimony, suggesting that "were all persons allowed to testify, and the jury left to judge of their credibility, no doubt the ends of justice would be greatly promoted thereby." The author of the letter said that more and more people were taking this stand, as they became aware of the ill-effects of the restriction of Negro testimony.[35] And he personally wished the members of the currently assembled Second Convention "a hearty God speed" toward the goals which they had adopted.[36]

Beyond this verbal support, substantial changes were coming about in the courts. For example, a white man was arrested for stealing a carpet bag belonging to a delegate to the Convention, a John B. Johnson. The thief seemingly thought that since his victim was a black man that there would be no retribution for his crime, since a black could not testify against him. The judge, however,

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[35]Examples of these ill-effects are not mentioned but there is seemingly a reference to the fact that disallowing Negro testimony was causing some white molesters of the persons and property of other whites to go unpunished because only Negro witnesses to the crime could be found.

[36]The letter was signed Burke. Sacramento Union, December 10, 1856, p.2.

sensed the culprits machinations, so he took steps to contravene them. The judge did not ask for any testimony. Instead, he allowed Johnson to prove his ownership of the stolen item by requiring him to produce the key to the satchel and, before opening it, to describe its contents. When Johnson successfully met both requests, the thief accepted the inevitability of his fate and pleaded guilty. He received a sentence of 30 days in jail or a one hundred dollar fine.[37]

Thus, the Convention held its deliberations in an atmosphere which bore at least some signs of hope. Meeting shortly after the December 12 close of the Convention, the Executive Committee made plans for the continued petition drive.[38] Also, it was decided to appoint canvassing committees for each county and to issue a protest address to the people of California in regard to the oath (court testimony). In order to facilitate the accomplishment of its aims, the Committee assigned to the Sacramento members those matters relating to the Legislature, such as overseeing the proper submission of the petitions and arranging for the introduction of bills when called for. The San Francisco members were placed in charge of the Mirror. Another object of attention in the coming year was to be the continued establishment of auxillary committees in the various counties.

As a result of the petition drive, seven petitions from as many counties were presented to the Legislature.[39] They were

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[37] Union, December 13, 1856, p.2.

[38] This year the Committee was composed of 15 members: 10 divided between San Francisco, Sacramento, and Marysville, 5 from other areas around the State. Cf. Proceedings, Second Convention, p.39.

[39] Beasley, p.56.

referred to the Judiciary Committee of the Assembly, but that body never reported them back. A bill concerning testimony for non-white children was presented by Assemblyman G.D. Hall and warmly defended by a few of his Assembly colleagues. But it failed to pass. Thus, another attempt by black Californians to secure relief from their legal disabilities met a legislative dead end.

Yet the black leadership felt that the security of black life and of the life of the community at large was too strongly dependent on the right of legal self-defense to allow even this major defeat to squelch the movement. And so the black populace of the State was once again called upon to assemble their representatives in Convention. This Third State Convention of California Colored Citizens was held in San Francisco, October 13, 1857. This body sat down to its deliberations with the weight of a repressive national development on its shoulders. For just seven months prior, U.S. Supreme Court Justice Roger B. Taney had delivered the ruling in the celebrated Dred Scott fugitive-slave case that "Negroes had no rights which the white man was bound to respect."[40] This decision declared black men to be, in the eyes of the law, no more than mendicants at the mercy of white pity. The overwhelming majority of blacks could not demand any of the benefits accruing to citizens, according to the Taney decision, for no descendant of Afro-American slaves could ever claim U.S. citizenship. Black Californians did not accord any validity to the Taney contentions but they were sensitive to the potentially supportive influence they would have on those

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[40] Cf. Dred Scott v. Sanford, 19 Howard 403, 407, cited in Leon F. Litwack, North of Slavery, p.60.

white Californians who were already committed to black repression.

The main plan of action adopted by the Convention was the same as in the past two years, namely, the continuation of the petition drive. The noteworthy items of this Convention were two arguments it added to the justification for the testimony struggle. In the preamble to the resolutions of the Business Committee report there is the statement that "...we are taxed equally with whites".[41] Black Californians, as well as those in other States, were generally very cooperative in the matter of taxation.[42] They accepted the paying of taxes as one of the responsibilities of citizenship. By willingly paying their full share of the public assessment they hoped thereby to exemplify their committment to being good American citizens. In return, they expected to receive, as other citizens, the full benefits and protections of American law, including the right of self-defense in court. This argument of equal benefits for equal pay was also used in later years by black Californians in regard to the right to vote and the right to public school education.

The second argument of the Convention in support of the claim to the oath was alluded to in the Business Committee report's second resolution, that the decision in the Dred Scott case "... violates the principles of the Declaration of Independence..."[43] The indication here was that denying blacks the oath was not only unjust, or detrimental to society, or contrary to the Divine will,

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[41] "The Convention of 1857", Appeal, May 3, 1862, p.2.

[42] The only tax which blacks objected to paying was the especially burdensone poll tax. Cf. Mifflin Wistar Gibbs, Shadow and Light, p.49. Also Herbert Aptheker, A Documentary History, pp. 29-31.

[43] "The Convention", loc. cit.

it was also self-contradictory for Americans; it was at variance with those tenets which they claimed to be the foundation stones of their national life. The Declaration of Independence, with its affirmation of the equality of men and of basic "inalienable rights", was the statement of America's raison d'etre, the apology for her existence. Unless America was committed to a schizophrenic existence, she was honor-bound to be true to her self-avowed principles. This meant the extension of society's rights and privileges to blacks on the same basis as other men.

The Executive Committee appointed by the Convention planned to submit the testimony petitions at the opening of the Legislature in early January, 1858. It must surely have been encouraging for California blacks to learn that the outgoing Governor, John W. Johnson, in his Annual Message delivered before the Senate January 8th, called for the extension of the oath to all citizens. The Governor said that the protections which the State claimed to offer non-whites were made ineffective by the prohibition of their court testimony. Johnson continued, saying:

> "Outrages and deeds of violence are constantly occuring, without the possibility of detection or of punishment, because the only witnesses by whom their commission can be proved are denied the privilege of giving evidence. This indiscriminate prohibition I regard as utterly at variance with the spirit of our constitution and a wise and judicious governmental policy."

Gov. Johnson urged the Senate to consider amending the laws so as to remove the restriction of the testimony of non-white persons against whites.[44]

Among other prominent whites supporting the testimony effort

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[44] Journal of the Senate, Ninth Session, 1858. (Sacramento: John O'Meara, State Printer, 1858), p.33.

were men such as the noted lawyer Col. E.D. Baker and State Senator David C. Broderick.[45] It had been the policy since the first petition drives to obtain primarily the signatures of men of stature in politics or business, whose names, presumably, would carry some influence with the Legislature.

Notwithstanding the Convention's argument and the support of the Governor and other whites, the petitions again fared poorly in the Legislature.[46] To begin with, they were not submitted properly. The Executive Committee had requested that the petitions from the various counties be sent in by January 3, in an envelope addressed to the Assemblyman representing the given county. The idea was to concentrate on one House and, failing there, the same focused appeal would be made to the other House. But in five out of nine responding counties the instructions were not followed: some came late, some were sent to the Senate, one made both errors. The irregular procedure irritated both Houses, at a time when many white Californians, including some legislators, were already aggravated by the activities of San Francisco blacks in regard to the Archy Lee case.[47] The Assembly acted first, voting to indefinitely postpone consideration of the petitions. At the same time a bill was introduced by Assemblymen Warfield and DeLong, both of Yuba, placing severe restrictions on free blacks living in, or hoping to enter, California. That this bill very nearly became law is some indication of the degree of anti-Negro hostility in the Legislature which the black petitioners faced.[48] Despairing

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[45] James A. Fisher, "The Struggle for Negro Testimony in California, 1851-1863". Southern California Quarterly. Vol. L, No. 4, December, 1969, p. 318.

[46] The following material on the progress of the 1857 petition and the critique of the rights effort are drawn largely from State Executive Committee, "An Address", pp. 9-16.

[47] Cf. Chapter II, pp. 50-57.

[48] Cf. Ibid., pp. 40-42.

of getting a two-thirds vote in the House to override the indefinite postponement action, the Executive Committee withdrew its efforts for that Legislative session.

This retreat from the battle marked the failure of the testimony effort for another year. But to some black Californians it represented even more than this. It was an outgrowth of the fact that the rights movement as a mechanism for effecting social change had broken down, the reason being that its component parts were in a state of malfunction. In a circular Address to California blacks, published in 1859, the Executive Committee of 1858 indicted those who had failed to adequately perform their function in the struggle. They protested that if their efforts had been less than fruitful, it was due to the failure of "moral and pecuniary support" from the people.[49] This was but an echo of the charge leveled against the California black populace by the Convention of 1855.[50] The "laxity" in the struggle referred to in the earlier charge, and the failure of support mentioned in the latter charge were both seemingly attributable in part to a submission to the demands of present, personal survival coupled with a short-sightedness as to the relation of current action to the attainment of desired ends. Another probable reason for the blacks' sluggish participation in the rights struggle was the fact that in these early years of California's Statehood many blacks, like large numbers of their white contemporaries, were unsettled and had not made plans and arrangements to settle in the State. They had come in hopes of making good in the gold mines in order to return to their homes

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[49] "An Address", p.11.
[50] See above, p. 69.

in the East with a sum of money sufficient to establish a basis of economic security for their families or themselves. That is why up until the early sixties the population of California was predominantly male.[51] It is understandable, then, that those men, black and white, intending only temporary residency would tend to adapt to discrimination for a season rather than to throw themselves fully into creating justice in a land not envisioned as their home.[52]

The circular Address contended that the same derelection and lack of substantive support which inhibited the rights struggle also caused the demise of the Mirror of the Times, which ceased publication in 1858. The Mirror had never become firmly established; the struggle to keep it alive had been uphill from its inception. The Executive Committee was charged with collecting funds for its support but found the people either slow or negligent in making contributions. By August of 1857 it was apparent that the Mirror was in serious trouble. That month the black residents of Yreka and Sacramento each held meetings to obtain recommittment of support for the paper and to collect funds for its operation. A similar series of meetings were held at Stockton in November of that year.[53] But inspite of these and similar efforts, the Mirror was forced to fold, with its outstanding debts falling upon the Executive Committee.

The Executive Committee, in the Address, pointed to another flaw in the rights movement which was even more deleterious than the lack of support, a flaw which, in fact, was partly responsible for

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[51] Cf. California State Census figures, reported in Ernest Siracusa, "Black 49ers", Appendix D, pp. 6, 11.

[52] This analysis is suggested in an editorial in the Appeal, September 20, 1862, p.2.

[53] The details of these meetings are found in issues of the Mirror for August 22 and December 12, 1857.

that lack, namely, the disruptive tensions within the movement. The Committee said that their efforts had been rendered futile by "discordant elements" and "diversity of sentiment" among the people.[54] Unfortunately, the Committee did not elaborate on the elements or the conflicting sentiments. The following condensation of an article from the Mirror shows the same critique of the movement being offered in 1857:

> We have settled into indifference and lethargy on the matter of our rights; we are doing nothing but quarreling among ourselves instead of uniting around the issues and devising plans of operation. Unfortunately, we have in our midst certain ambitious, traitorous persons who operate by a rule or ruin policy. Such men are so low in the scale of manhood that they ought be drummed out of society.[55]

Other strong comments such as the last one above were made about the dissident persons but, again unfortunately for our understanding, specific persons and issues were not mentioned.

The Address pointed up a third cause for the movement's failure. It spoke of the many whites who pretended to be friends to the cause but who turned to prejudice and opposition when they were needed most.[56] There was an overtone of bitterness in this allegation of treachery, but the Address did not dwell upon it. White treachery was no new phenomenon to these black men. Indeed, it was a part of the very thing against which the rights movement was fighting. It was mentioned seemingly as an indictment of the guilty and as a reminder to the victims of its destructive presence. However, it is clear from the weighting of the Address that a far more serious threat to the movement was seen in the

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[54] "An Address", p.12.

[55] Mirror, December 12, 1857, p.2. This is fairly close to an actual verbatim quote of the corresponding sentences in the article. The Rev. J.J. Moore alludes to the same problem in an August, 1857, speech in which he says that the State's blacks "...have been too much divided during the past year on our common cause..." Found in Peter Cole, "Cole's War with Ignorance and Deceit," p. 3.

[56] "An Address," p. 13.

weakening of the ranks which occured when black men turned to divisiveness or laxity.

With the drive for court testimony aborted for the third consecutive year, the Executive Committee felt more strongly than ever the burden of the question, Where do we go from here? The answer which grew out of serious reflection on the prospects and possibilities was that the organized struggle should be abandoned until a more auspicious time. It was felt, to begin with, that any attempt to muster a new movement would be seriously crippled by the drain of some of California's most talented black men by the Frazier River gold strike. As mentioned in Chapter II, the strike provided an out for many blacks who had become disillusioned with the possibility of ever finding justice in California. Their going was not unattended with controversy. The Mirror for June 20 and September 15, 1857 contained a set of poems, one favoring and the other denouncing emigration as the answer to the black Californians' problems. The poems contain thinly veiled, critical references to, presumably, the chief advocates of the opposing positions, as in the following excerpts:

[Pro - in ridicule of the emigration opponents]
...while turn-coat A., and treacherous T.,
Urge on non-emigration.
Say to all nations, kindreds, tongues,
Farewell expatriation-
We have not courage - spunk enough
To think of emigration.
We'll rather be as Southern slaves,
Bound here by BLACK taxation;
Than have a puny Cole to rule,
Or speak on emigration.
To Mexico we will not go
Nor Moore's Canadian station...

[Con]
Have you not heard our would-be teachers
Caring for us poor simple creatures?
In social and in civil state,
Would have us all to emigrate...

To seek for any alteration -
Your welfare in expatriation...
Many prefer to live in Towns,
And ONE or MOORE may emigrate. [sic][57]

Years after the exodus, feelings of resentment could yet be found against those who made the move. For example, in a letter to the editor of the Appeal, a certain Isaac Sanks of Grass Valley condemned Mr. Moore for what Sanks considered to be deserting black Californians in the heat of the struggle, when all voices were most needed. He said Moore delayed his return until the fight was almost won and he felt it safe.[58] Apparently, Sanks and the majority of blacks saw their holding fast amidst the oppression as a principled stance of duty and manhood. The same seems to have been true of those who left. However one may evaluate the positions of the two sides, it is clear that, in terms of the rights struggle, the exodus was a serious blow to the leadership and the morale of those who remained behind.

The second factor militating against a renewal of the testimony struggle was the composition of the State administration and the Legislature. The Mirror in December, 1857 noted that, "A new governor [John B. Weller], hostile to our interests is soon to be inaugurated, and a Legislature of the same stripe is about to assemble."[59] The Mirror's evaluation was proven correct by the ensuing action of that Legislature in not only rejecting the plea for the right of testimony but also very nearly passing restrictive anti-Negro immigration laws. In light of this, the Execu-

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[57] Found in Cole, "Cole's War", p.13. It is not clear as to whom the A. and T. initials refer. "Towns" may be a reference to Jonas Townsend, editor of the Mirror. Moore is the Rev. J.J. Moore and Cole is Mr. Peter Cole, resident of San Francisco.

[58] October 19, 1867. Moore returned to California in 1862.

[59] Quoted in James A Fisher, "A Social History of Negroes in California, 1860-1900." Masters Thesis, Sacramento State College, 1966, p.318.

tive Committee, at its November 9, 1857 meeting, concluded that it would be more fruitful to postpone further petitioning until there was a change of political climate in Sacramento.[60]

As an alternative to continuation of organized struggle, the Committee had two suggestions for California's blacks. First, this period of respite should be used as a time of reflection in which new approaches to their common problems could be devised and brought forward. The second suggestion was, itself, a new approach. Seemingly the Committee members were beginning to question the effectiveness of the petition method; complaints and appeals, they said, may excite temporary compassion, but would bear no lasting results. Rather, blacks must pursue those vocations which are productive of wealth. Already they brought large amounts of money into the market; selective spending could make this a significant source of power. For instance, though legally denied a voice in determining public policy or selecting public officials, blacks could make their desires and discontents known and felt by withholding economic patronage from those who cry "liberty" but balk at enforcing it. This suggestion of the Committee that the movement switch its focus from the mind and conscience of the white man to his sense of self interest grew out of their conclusion that in America "pecuniary prominence" held more sway than intelligence.[61]

With the offering of these suggestions, the Executive Committee determined that it had exhausted its usefulness, under the cir-

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[60] "An Address", p.11.
[61] Ibid., p.15

cumstances. The November 9 meeting, which authorized the issuance of the circular Address, was declared to be its last session. The advance toward the right of testimony had been repelled. Black Californians, after three years of concerted struggle, found themselves beating a frustrated retreat. Oddly enough, the Address, which was sort of the post mortem for this phase of the struggle, omitted from mention what might seem to have been major victories for the blacks' cause. In August of 1858 a San Francisco judge decided an assault case in favor of a black plaintiff against a white man; the decision was based on the testimony of the black man, himself. The judge contended that the law was unclear on the subject of black witnesses; he said if blacks who were victimized could not offer testimony then there would be many occasions where crime would go unpunished. But "the policy of the law is that crime should be punished...."[62] As a result of this case, two cases followed in November and December of that year in which black plaintiffs won decisions against whites based on their own testimony.[63] It may be that the Executive Committee viewed these cases as examples of the fairness which could be found in isolated whites but not as indicative of a developing disposition among whites in general toward the granting of black rights.

But despite its dismal view of the circumstances, the Committee still found cause for a note of optimism. In the closing paragraphs of the Address, the Committee called to attention the giant socio-economic strides which black Californians had made,

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[62] San Francisco Evening Bulletin, August 24, 1858, p.2.
[63] Cf. Bulletin, November 3 and December 9, 1858.

despite the innumerable obstacles cast in their way. If this pace were continued, said the Address, then in less than twenty years the oppressor, already amazed at black progress, would find his prejudices "vanishing away".[64] However, the course of events in the ensuing twenty years proved this optimistic prediction incorrect. That some black Californians opted to leave the State for more congenial climes suggests at least some awareness on their part of the depth and tenacity of racial prejudice. But even after continued economic progress and repeated frustration of their efforts for justice, other black Californians still expressed the belief that with just a little more time, just a few more accomplishments, the white folks would do right by the black man and give him his due.[65]

In the three-year period following the disbanding of the Executive Committee in 1858, black Californians apparently turned their thoughts away from mass action for their rights to individual action toward bettering their socio-economic condition. With the Mirror now defunct there was no black press to record whatever rights activities which might have taken place. A careful examination of the white press of the time might reveal some minor, isolated protests. But it is not likely that any protests of note took place. For when a black press was again established and editorial reflections were made on the past struggle, no mention is made of this three year period.

Then sometime between 1860 and '61 the issue of court testimony for blacks was again cast into the public forum and the

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[64] "An Address", p.15.

[65] Cf. Appeal, April 26, 1862, p.2.; May 3, 1862, p.2.; June 7, 1862, p.2.

slumbering black effort for that legal right was awakened and set afoot. The reasons for this new development are unclear. It is probable that blacks came to a renewed realization that their socio-economic advancement and the security of their gains were inextricably bound up with the right of legal self-defense; success in a business would be a precarious fortune if that enterprise were subject to uncontestible assaults by unscrupulous whites.

Another probable cause for the revival of the testimony effort was the influx of blacks from the East and South, bringing new talents and energies to the California scene. Outstanding among these immigrants was Phillip A. Bell, who arrived in 1860 from New York. Bell, as mentioned earlier,[66] had fought many years for black rights as an editor of New York city's Colored American, a pioneering black newspaper which he had established in 1837. In addition to his journalistic efforts he had been prominent in a number of black rights movements.

The revival of the testimony effort may also have been, in part, the result of a movement among some whites at this time to secure the oath for the Chinese.[67] This move automatically raised the issue of the oath for blacks in the mind of many whites who tied the question of Chinese rights in with black rights: they asked, If one such degraded class was to receive citizen's rights, why not all? But if the issue of Chinese rights invoked any rights activity among blacks, it surely was not a matter of the blacks protesting "Us, too" but rather "Us, first". For Californiablacks felt that for at least two major reasons their claims to

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[66] See Introduction, p.10-11.
[67] Cf. Fisher, "A Social History", p.319.

the benefits of America took precedence over those of the Chinese. First, blacks argued that they were natives of the country, familiar and sympathetic with its language, customs, laws, and institutions. Their loyalty had been proven many times over on the battlefields of each war the country had experienced. But the Chinese were foreigners; they clung to their own customs and language and were unacquainted with American institutions. The second argument was that blacks were Christians and lived clean, respectable lives, whereas the Chinese were heathens who "pollute the air with their filth and the mind with their licentiousness." So if the rapidly increasing concentration of Chinese in California was causing some whites to push for Chinese rights, blacks were prepared to remind those whites that the black man held a prior claim to citizen's rights.[68]

While blacks felt that their claim to the oath took precedence over that of the Chinese, a majority in the Legislature felt that they still had no claim at all. For an Act passed in May of 1861 amended certain provisions of the laws concerning witnesses in civil cases, but it reaffirmed the ban on Indian and Negro witnesses (and all non-whites, implied), in cases to which white men were party.[69]

The revived black testimony effort once again adopted the petition method in meeting this white entrenchment. The circulation of petitions began in February of 1862. They called for the repeal of those portions of the Criminal and Civil Practice Acts which denied the right of testimony to Negroes, Mulattoes, and

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[68]For statements fo these views see the Elevator, July 21, 1865 (contains the quoted material); January 19, 1866; August 30, 1867.

[69]Statues of California. Twelth Session, 1861. (Sacramento: C.T. Botts, State Printer, 1851)., pp. 521-22.

persons having 1/8 Negro blood. In a matter of days the San Francisco petitioners had gleaned the signatures of 250 judges, merchants, and other professional men.[70] As in earlier years, the intent was to solicit the support of prominent whites whose names or positions would carry influence with the Legislature. When presented to the Assembly, the petitions were referred to the Judiciary Committee, which reported back a recommendation of indefinite postponement of their consideration by the Assembly. But the Assembly rejected this report and voted to consider the bills into which the petitions had been transformed.

While the Legislature was considering the testimony bills, some important developments were taking shape in San Francisco. The first was centered around the fatal assault by a white man on a black.[71] Rodney B. Schell, a white man, robbed a millinery store of some cash and was pursued by the black female proprietress of the store who summoned him in the words, "Stop, thief". The criminal, having escaped the pursuit, went next day to the barber shop of Mr. George W. Gordon, brother-in-law of the robbery victim, and demanded that Gordon force the victim to retract the epithet "thief". When Gordon refused to do so, the robber fatally shot and pistol-whipped him. Schell was subsequently arrested and brought to trial. There were but two witnesses to the event: a white hotel owner and another man of very light complexion. The latter was directed by the court to receive a private examination by two supposed experts in "hairology", a discipline whereby the

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[70] The available sources did not indicate it petitions were circulated in other cities, though it is likely that they were.

[71] The exact date of the incident was not obtainable but it seems to have occured in late February or early March of 1862.

ethnological descent of an individual is traced, for many generations back, through an examination of the hair and nails. The examining doctors, both formerly of the South, said they believed that the gentleman in question had one-eighth Negro blood. Therefore the judge ruled out his testimony. On the testimony of the one remaining witness Schell was convicted of second-degree manslaughter. He was given the maximum sentence for his conviction - ten years imprisonment.[72]

The importance of this case was that it probably served to intensify blacks' awareness of their legal disability and to call forth added efforts to relieve their condition. For shortly after the court rendered its decision, a league was formed by some black San Franciscans to direct a concerted agitation for the removal of the Negro testimony restriction. Among the initial membership of the League were the Rev. J.B. Sanderson and P.A. Bell. Men from all the interior regions were invited to join, as the intent was to make it a permament organization for securing black rights. A committee from the League was dispatched to Sacramento to oversee the progress of the testimony bills.[73]

Another notable development at this time was the establishment of a black news journal. Since the demise of the Mirror of the Times in 1858, blacks had felt deeply the need for a public organ to plead their case and chronicle their collective life. Peter Anderson, one of the early black San Franciscans who had

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[72]He was pardoned after two years by reason of having tuberculosis; he died shortly afterward. The details presented here of the Schell-Gordon case are taken from Beasley, Negro Trailblazers, p.54, and the Appeal, April 5, 1862, p.2. Though the white secular press of San Francisco reported this blatant crime against a black man, it was not mentioned in either the Pacific (Congregational organ) or the California Christian Advocate (Methodist Organ); both of these papers were published in San Francisco.

[73]Beasley, p.54; Appeal, April 19, 1862, p.3.

helped found the Mirror, decided to fill that need. On April 5, 1862, he began publication of the weekly Pacific Appeal.[74] Its editorship was placed in the hands of the very able P.A. Bell.[75] Though published in San Francisco, the paper was to be circulated State-wide through agents commissioned in each city or locality. One such agent, whose voluntary aid the Appeal proudly accepted, was the Rev. T.M.D. Ward.

In the first issue, Bell stated that the Appeal would be devoted to the interests and the "moral, intellectual and political advancement" of the black people of California. A particular focus of the paper, said Bell, would be the repeal of the law restricting the court testimony of blacks. And he wasted no time in setting in upon this task. The first issue contained an account of the Schell trial, which Bell branded as "a mockery of justice". There was also a listing of the San Francisco papers which editorially had taken a stand on the testimony issue. The Morning Call, the Herald and Mirror, the Bulletin, and the Alta California had come out in favor of the blacks' cause; the Evening Journal was opposed. The editors of the Evening Journal made it clear that they were upset neither over the denial of blacks' testimony rights nor over the consequence of that denial. For in rebuking the Morning Call's editors for the position they took on the Schell-Gordon murder case, a March 20 article said: "They

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[74] The Appeal, May 31, 1862, p.2., contains a letter from a reader expressing the need he and others felt for a black-oriented press. Just a few weeks prior to the inception of the Appeal, the Rev. J.J. Moore had begun publication of the monthly Lunar Visitor. Journalist P.A. Bell applauded its entry on the scene, describing it as in the nature of a variety feature magazine rather than a news journal.

[75] Bell, however, split with the paper after only a few months, as a result of a disagreement with Anderson, its owner. The nature of their disagreement is unclear but in succeeding years Bell and Anderson engaged in frequent, sometimes bitter, debate over the tactics and direction which the rights movement ought to adopt.

make the air resound with their lamentations, because a negro [sic] has been killed, and a white man is not to be hung for killing him."[76] Bell said that every secessionist paper in the State had copied the articles from the Evening Journal against the bill to admit Negro testimony. "Secessionist" referred to that group of persons who supported the move of certain Southern States to secede from the Union. The pro Southern element had always been very strong in California. Up until this time it had been dominant in the Legislature.[77] An 1863 issue of the Appeal says that many of the men who were responsible for the laws proscribing Negro testimony were away fighting in the ranks of the Rebellion.[78]

The prospects of the bill's passage, however, looked better than its detractors had wanted to see. That the bill was being seriously entertained by the Legislature was a major departure from past practice. But now there even appeared to be chances for passage. And when, in fact, on April 1, the Criminal Practice Bill (providing for Negro testimony in criminal cases) came up for vote in the Assembly, it passed by 38-31; the Civil Practice Bill passed a few days later. The editor of the Pacific expressed in that paper's columns the belief that given the mood of the Legislature the bills would surely pass into law.[79] But on April 12, the Criminal bill was defeated in the Senate 14-13, an event which the Evening Journal commended. The Civil bill was far down on the Senate's agenda, with adjournment close at hand. On May 9, it failed to receive the 2/3 vote which the Lt. Governor had declared was

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[76] Quoted in Appeal, April 5, 1862, p.2.

[77] Cf. Appeal, May 3, 1862, p.2.

[78] Ibid., January 31, 1863, p.2.

[79] April 10, 1862, p.2. The editor hoped that this would happen and thus remove the shame that had been fastened on the young State by what he called a "detestable brood of Chivalry".

necessary to bring it up for consideration. And so as the legislative session ended and the Senate was dismissed, so also were the hopes for an end in 1862 to the restrictions on the California Negroes' legal self-defense. Black efforts for the oath had come closer than ever before to receiving the crown of success. Previously, petitions had died in committee; this time bills made it up for votes - close votes. This fact, coupled with the growing support of the white press seemed to indicate to blacks that the tide was changing in their favor.

Although strong seccessionist forces were seen as a main cause for the bills' defeat, editor Bell pointed to two other major causes: want of time and lack of unity. Action had not begun on the petition drive until February when the Legislature was already in session. And, as in past years of struggle, there were too many individual plans of action. Bell said that the petitions which were circulated did not reach all the blacks or enough whites. Also, he advanced the questionable notion that had friendly legislators been given more documentation of blacks' worthiness to exercise the right of oath that their cause might have been strengthened. He had hopes, though, that an immediate start of a new effort and better organization would result in the removal of the proscriptive testimony laws in the coming year.[80]

In the months following the adjournment of the Legislature, various plans of action for a renewed testimony campaign were discussed. Some blacks favored the calling of another convention. There was a suggestion of forming county associations and local clubs to circulate petitions and hold mass meetings focused on

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[80] Appeal, May 3, 1862, p.2; July 5, 1862.

black rights. The convention idea did not gain wide-spread support. Available records do not clearly indicate what organizational structures were formed or how geographically extensive they were. But a petition drive was mounted. An additional strategy was suggested by Peter Anderson in an Appeal editorial, August 2. He urged blacks of wealth and standing to exercise whatever influence they could with the white electorate toward electing men of liberal ideas to the Legislature in the September elections. Just how many blacks acted on this suggestion and how effective they were would be difficult to determine. But the goal of Anderson's plan was realized: the voters declined to return to office many of the opponents of Negro testimony.[81]

When the legislative session opened in January, Peter Anderson expressed in the Appeal the optimism seemingly shared by many California blacks, that the Legislature, with its new blood, would reflect the "Union" and "loyalty" sentiment of the majority of the State's citizenry and remove the oppressive testimony statutes.[82] These "Union" and "loyalty" sentiments referred to a State's stance on the Civil War, then in full heat. Being a "union man" meant that one was pledged to keeping the Federal Union intact, the goal which President Lincoln had declared to be primary in the War. There was also the implication that one favored the extension of freedom and rights to blacks.

From the outset of hostilities, California had officially given its loyalty to the government in Washington. Military personnell from the State figured only nominally in the actual com-

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[81]Lapp, "Negro Rights Activities", p.24, based on the Appeal, September 16, 1862 and Lapp's Analysis of the 1863 Legislative roster.

[82]Appeal, January 31, 1863, p.2.

bat, but gold from California was of crucial importance in financing the Northern military operations. To be sure, there was substantial pro-Southern sympathy in the State's populace. In fact, the State was fairly evenly divided between North and South supporters. One group of Confederate devotees even provisioned a schooner with arms and ammunition with the intention of seizing a mail ship, fitting it up for combat and menacing Northern shipping operations in the Pacific. But the plot was discovered by Federal authorities and thwarted before it fully materialized.[83] Throughout the War, California maintained an official stance of allegiance to the Union. It was this Union stance, with its implied pro-black sympathies, that Anderson and other California blacks were counting on to help them in their fight for testimony rights.

The organizers of the testimony efforts secured the aid of State Senator Richard F. Perkins, who, on January 9, 1863, introduced Senate Bills Nos. 2 and 3, aimed at removing the restrictions on Negro testimony in civil and criminal cases, respectively.[84] The discussion which followed in the Judiciary Committee, to which the bills were referred, centered on bill No.2., concerning civil cases. The third clause of Section 394 of the Act regulating civil cases placed restrictions on the testimony of "Indians, or persons having one half, or more, Indian blood, and negroes...." [sic]. This seemingly ignored Chinese and Mongolians. But State Supreme Court Justices Murray and Heydenfeldt, in the 1854 case

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[83] Caughey, California, pp.221-23.

[84] The following account of the Legislature's action on the bills is based on an article from the Sacramento Bee, reprinted in the Elevator, July 21, 1865, and on the Journal of the Senate and the Journal of the Assembly (Sacramento: Benj. P. Avery, State Printer, 1863) passim.

of the People vs. Hall, ruled that the Legislature did not mean to limit the restrictions to Indians and Negroes but, rather, used these as generic terms to cover all non-whites; the term "white", said the Justices, was intended to exclude all but Caucasians. Hence, Chinese, too fell under the restriction. The general public accepted this situation but most lawyers believed the proscription of Chinese to be legally unsound if they were not specifically mentioned in the law. The Judiciary Committee proposed to clarify this matter while dealing with the Perkins bill by substituting "Chinese and Mongolians" for "Negroes" in the law. The Perkins bill, amended to this effect, was reported back to the Senate with recommendation for passage. On January 30, both bills No.2 and No.3 came up for vote; by clear majorities of 21-14 and 22-14, respectively, the bills received the Senate's approval.

The bills reached the Assembly February 3 and were referred to the Judiciary Committee. That body reported them back without amendment and recommended their indefinite postponement. The bills were made the special order of business for the March 4 session. When, on the appointed day, they came up for consideration Dudley, of Placerville, moved indefinite postponement of bill No.2. Mr. Estee moved to amend the bill by adding,

> "Provided that no verdict shall be found on the uncorroborated testimony of negroes [sic]; and in the case of a trial by jury, it shall be the duty of the court to instruct the jury to disregard the testimony of negroes, unless corroborated by other evidence".

The Assembly rejected both the motion for postponement and also the Estee amendment. On March 6, bill No.2 received a passage vote of 46-30; bill No.3 was allowed to pass by default on March 10.

Governor Leland Stanford signed into law the Civil Practice Bill on March 16 and the Criminal Practice Bill on March 18.

After many long years of struggle, disappointment, unchecked abuse, and more struggle, success had finally crowned the efforts of California blacks to gain the right of self-defense in courts of justice. The responses of the black community to the action of the Legislature in granting the oath were consistent and revealing. The editorials of Peter Anderson in the Appeal touched on each of the types of respnses. He said:

> "We thank Almighty God for giving our leaders the sense of justice whereby this burden has been lifted. We thank the Legislature on behalf of the colored people of California. This should impel us to renewed defense of our 'bleeding country'. Regardless of her past faults, we are contented that she now stands on the side of Freedom. [sic] Let us strive to prove to the enemies of our progress that we do now, and will always attempt, to justly merit the privilege now extended to us by this Legislature.[85]

In another issue Anderson counseled his fellows to be guarded in their conduct so as to commit no vile acts which would embarrass their Legislative friends or which could be construed as resulting from the repeal of the unjust testimony laws. He also advised patience and conciliation in meeting disputes, not entering suits simply because the option was now available.[86]

A public meeting of the black citizens of San Francisco called to plan a testimony victory celebration passed a preamble and resolutions which closely resemble Anderson's statements.[87] As in Anderson, thanks was offered to the Deity in recognition of His

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[85] Appeal, March 7, 1863, p.2. Anderson noted in the next issue that because of misinformation he received from the telegraph service, he made this statement prior to the actual passage of the Criminal Practice bill.

[86] Ibid., March 21, 1863, p.2.

[87] Printed in Appeal, loc.cit.

determinative role in bringing about the victory. But God's initiative was further emphasized and expanded upon by attesting the testimony struggle to be part of a larger, Divine plan:

> "...an Allwise Providence is working the destruction of slavery and...the recent action of our State Legislature /is/ a link in the great chain of events inaugurated by the Supreme Ruler of the Universe, which must eventuate in equal justice to all"

Again as in Anderson, the resolutions thanked the members of the Legislature who supported blacks' cause. Anderson's patriotic allegiance to his "bleeding country" was echoed in Resolution three:

> "Resolved, That we claim identity of interest with all loyal /sic/ Americans, will share the burdens, and respond to any call to defend our country against her foes."

Common in the responses to the Legislature's action was an overestimation of the implications and benefits of that action. Anderson took it as one sign that the country "now stands on the side of Freedom". In a letter to the Appeal from a Stockton subscriber the writer expressed his rejoicing over the testimony bill passage and advanced his conviction that "the day is not far distant...when the ban of color shall be extinct..."[88] Subsequent years have shown that the step from extending the oath to extinquishing the color ban is much longer than this Stocktonite suspected. The same overestimation of the new status given blacks by the new laws was contained in the "same chance" idea in the following interesting letter written to the Appeal from a black man in San Rafael. The letter exults over the new condition, recognizes those who helped (or hindered) in the struggle, but it looks guardedly toward the future:

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[88] Ibid., March 14, 1863, p.3.

> "Glory to God in the highest, peace on earth, and good luck to all of our friends and bad luck to our enemies. The white folks say they are the most superior piece of work God has made; their old tale of negro /sic/ inferiority is most played out...But as we now have the same chance, if we don't do all that they have done, and all they can do, then and then only, will I believe in the tale they so much like to tell of their superiority"[89]

It is almost certain that as in San Francisco, blacks throughout the State held ceremonies of celebration of their admission to the privilege of court testimony. And much they had to celebrate, for a major portion of the burden of oppression had been lifted from their shoulders.

Though to some blacks the action of the Legislature signaled a significant change in white sentiment, it nonetheless was not a move of untarnished liberality: in addition to children, felons, and the insane, the right of testimony was still denied to Mongolians, Chinese, and Indians. Only blacks benefited from the new law; it was not until January of 1873 that the oath was extended to all, regardless of race or color. Some students of this period attribute the Legislature's action to the influence of national events. For example, Theodore Hittel, in his History of California, says that the testimony issue was "merely a special and exclusive movement in favor of the Negro brought about by the /Civil/ War."[90] Francis Lortie, in a 1970 Master's Thesis, advances the notion that the Emancipation Proclamation encouraged the Legislature to grant blacks the rights for which they were asking.[91] There appears to be truth in these positions. California was divided fairly evenly between pro-Northern and pro-Southern

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[89] Ibid., April 14, 1863, p.2.

[90] History of California, Vol. IV, p.341.

[91] Francis Lortie, "San Francisco's Black Community, 1870-1890: Dilemmas in the Struggle for Equality," Masters Thesis, San Francisco State College, 1970, p. 16.

sympathizers but the official position taken by the Legislature was in support of th Northern cause. Thus it is likely that there was animosity in that body toward Southern sympathizers and toward their characteristic causes, one of which was Negro proscription. Further, the War was, at first, described by the North as an evil necessary to preserve intact the Federal Union. President Lincoln declared that this was the goal he would pursue - even, if necessary, to the exclusion of the matter of slavery. But it soon became clear that the question of slavery or citizenship for the black man was an inescapable, focal issue in the conflict. Pressure from abolitionist forces, the need to maintain credibility with Europe, and the need for the military support of the large body of slaves influenced Lincoln's decision to use the discretionary powers of his office and declare emancipation. But from the early days of the War many observers realized that whatever else might be the consequences, one certain outcome of the War would be the end of slavery. The Methodist Annual Conference in 1860 adopted a statement which claimed that God was active in the conflict, working through it to call the nation to repentence and to bring destruction to slavery.[92] And a writer for the New York Times asserted in 1863 that since the outbreak of the war, the slaves had become "so utterly disorganized...that the institution [slavery], under its old order, is forever destroyed and worthless, no matter what Mr. Lincoln or any one [sic] else may say on the subject."[93] It is very likely that there were some otherwise antagonistic California Legislators who had accepted the handwriting

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[92]Cf. Minutes of the California Annual Conference of the Methodist Episcopal Church (San Francisco: B.F. Sterett, 1860), p.34.

[93]From an article of the New Orleans correspondent to the New York Times, reprinted in the Appeal, January 3, 1863, p.2.

on the wall and decided to move with the times in granting blacks at least some of the rights commensurate with their inevitable new state of full citizenship.

But it would be a mistake to attribute the extension of the oath solely to the influence of national events. Consideration is due to the initiative and agitation of black Californians for over 12 years. As with the biblical knocker at midnight, their "importunity" must be given some measure of credit for the final acquiescence of the Legislature.

Other contributing factors are suggested in the speech of J.J. Owen delivered in support of the testimony bills to his fellow members of the 1863 Assembly.[94] First, Owen said that it insults white juries for the law to assume that they could not adequately weigh the statements of a given class of witnesses for their truth. And it was folly to question, a priori, the veracity of Negro testimony, since the black man attaches an almost superstitious sanctity to those statements to which he has called upon God in the oath to witness. Owen's argument indicates that some Californians were making serious analysis of the existing judicial laws and calling into question their rationality.

His second argument exposed the inner contradiction of Americans denying the right of full legal and political participation to any of its citizens. He said that the colonies annuled their allegiance to the Mother Country on the basis of "taxation without representation". Yet, he continued, while the Negro is taxed in common with others, he has no voice in government and cannot even represent himself in court. This issue of taxation and re-

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[94]The speech is printed in the Appeal, March 28, 1863, p.1.

presentation had been raised by blacks, themselves, as early as 1850. For example, Mifflin W. Gibbs, in a letter found in the Liberator, July 3, 1857, said that during his seven years in California he had consistently refused to pay the poll tax, the tax on eligible voters, and would continue to refuse as long as blacks in California "remain disfranchised, oath-denied, outlawed, colored Americans."[95]

The third argument advanced by Owen was a recognition of white self-interest. He said that expediency demanded the admission of Negro testimony, for the protection of whites was inhibited when whites prohibited a source of relevant testimony on their behalf.

Lastly, Owen attempted to combat some of the racial/emotional fears causing some whites to hesitate on, or be adamantly against, the granting of the right of oath or any other right to blacks. He said opposers of the testimony bills raised the cries of "social equality", "amalgamation of the races", and the threat to white superiority. But, said Owen, while the privileges and protections of the law were extended to all white men, this had not brought about social equality or amalgamation between debased and elevated classes of whites, so why should it be so with blacks and whites? And anyway, he continued, superiority was based on one's mental and moral woth, not his color. Owen's inclusion of the social equality issue in his arguments was in recognition of its prominence in the public mind. Indeed, Peter Anderson observed in an Appeal editorial that the strongest "bugbear" raised in opposition to admitting Negro testimony was that if Negroes were allowed to testify against whites they would assume social roles to which

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[95]Aptheker, Documentary History, p.395.

they were not entitled.[96] Nor was this merely a local issue, for President Lincoln surely expressed the feelings of many Americans when he publicly declared himself opposed to the social or political equality of blacks and whites.[97] This desire that American blacks not overstep the place of inferiority assigned to them by racial bigotry continued to plague the efforts of California's black citizens as they persisted in the struggle for the full rights of citizenship.

It is difficult to evaluate the relative effectiveness of Assemblyman Owen's speech and the numerous other factors contributing to the final passage of the 1863 testimony bills. At best one can say that by the combined influence of many forces, not the least of which was black men's own perserverence, black Californians saw the successful end to their search for self-defense.

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[96] Appeal, January 23, 1864.

[97] For a treatment of Lincoln's views on the racial crisis of the country in his day see Nathaniel Weyl, The Negro in American Civilization (Washington: Public affairs Press, 1960), Chapter 7. An extensive treatment of American racial attitudes and beliefs is given in Thomas F. Gossett, Race: The History of an Idea in America (New York: Schocken Books, 1965).

Chapter IV

TOWARD a VOICE in AMERICA

The exultant sounds of joy and celebration over the granting of the oath had scarcely cleared the air when voices began to be heard calling California's black men to reenter the battle for rights still withheld. This time the hoped-for spoil of victory was the open opportunity to voice political preference, public dissent, and public policy suggestions through that fundamental democratic institution, the ballot box.

When the California constitutional convention of 1849 considered the question of who should be allowed to vote, the majority opinion favored extending that privilege exclusively to white, male, U.S. citizens.[1] The first issue which elicited debate was whether such a restriction violated the terms of the treaty of Guadalupe Hidalgo, by which Mexico had ceded California to the U.S. By this treaty the residents of the California territory—Spanish, Indian, and Negro—who opted for U.S. citizenship were to receive citizens' rights. Some convention delegates saw no conflict between the treaty and the proposed law, possibly grounding their opinion on the fact that it was common in existing States to withhold some rights from certain classes of citizens based on their race. The import of this issue was that a Constitution which contained an inclusion violating the treaty would not be acceptable to the Federal government and would thus

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[1] Ross Brown, Report of the Debates in the Convention of California on the Formation of the Constitution, 1849. (Washington: John T. Towers, Printer, 1850), pp. 304-307. Blacks enjoyed the franchise in a number of States in the years immediately following the American Revolution. But new States entering the Union after 1877, expecially those of the South, tended not to extend the privilege to blacks. In the nineteenth century a national trend toward reducing the social and political status of free blacks resulted in Constitutional provisions in nearly every State which excluded blacks from suffrage. Cf. Franklin, From Slavery to Freedom p.220.

delay California's entry into Statehood. The other item of contention was whether or not a blanket exclusion of Indians from suffrage was justified in light of the proven ability of some men of Indian extraction to exercise the full duties and privileges of citizenship. A number of delegates felt it was not. The action taken by the Convention on the suffrage question was the adoption of the proposal of the committee appointed to consider the matter. That proposal, which became Article II, Section I of the State Constitution, read as follows:

> "Every white male citizen of the United States, and every male citizen of Mexico (Indians, Africans, and descendants of Africans excepted) who shall have elected to become a citizen of the United States under the treaty of peace exchanged and ratified at Queretaro /Treaty of Guadalupe Hidalgo/ on the 30th day of May, 1848, of the age of 21 years, who shall have been a resident of the State six months preceding the next election, and the county or district in which he claims his vote thirty days, shall be entitled to vote at all elections which are now or hereafter be authorized by law."[2]

On the day following the adoption of the above, a motion was made to reconsider. The outcome of this reconsideration was that the Section was reworded but with the only substantive change being the addition of a proviso that the Legislature of the new State could, by a two-thirds vote, admit Indians to the right of suffrage "in such special cases as such a proportion of the legislative body may deem just and proper."[3] The possibility of a legislature ever taking such action was slim but at least some accommodation had been made for those who were uneasy with a definitive exclu-

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[2] Ibid., p. 305.

[3] Ibid., p. 341.

sion of Indians from suffrage. It will be noted that the admissability of Negro suffrage was not considered a matter needing discussion; seemingly there was common opposition among the convention delegates to giving blacks the vote, or even providing leeway for it, as had been done for Indians.

From the beginning black Californians felt the disabilities imposed by the convention in making the franchise a prerogative reserved for whites only. In 1851 Jonas P. Townsend, William H. Newby, and Mifflin Wistar Gibbs published in the Alta California a letter of protest against the disfranchisement of California blacks and the denial of other citizens' rights.[4] But for the next decade organized Negro protest activities tabled the suffrage issue and focused on the laws relating to fugitive slaves, Negro immigration, and the right of oath. The only recorded actual confrontation in the 1850's concerning the franchise was that of M.W. Gibbs and John Lester in 1857. These two business partners had some goods confiscated by the State Tax Collector in payment of the poll-tax, which these gentlemen persistently refused to pay. In a letter to the press explaining their position, Gibbs and Lester declared:

> "... we can perceive and feel the flagrant injustice of compelling 'colored men' [sic] to pay a special privilege and then break their heads if they attempt to exercise it."[5]

The letter concluded with a statement of determination to continue in refusal to honor the poll-tax as long as black Cali-

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[4] Gibbs, Shadow and Light, p. 47.
[5] The letter is found in Aptheker, A Documentary History, p. 395.

fornians were denied the oath. Further resistence proved unnecessary, however, because through the efforts of an influential white San Franciscan, the intended sale of the confiscated goods was thwarted and the revenue officers never again called upon Messrs. Gibbs and Lester for the poll-tax.[6]

By 1863 some blacks in San Francisco, possibly encouraged by the victory on the testimony issue, began to feel that the time had come to address corporately the issue of Negro suffrage. Appeal editor Peter Anderson took note of this stirring among the people. But he counseled postponement of protest, saying that while blacks were fully capable of exercising the elective franchise, the time was not right for agitating for the privilege. He advised that blacks, for the meantime, prove to whites that they were worthy of such "legislative preferrments" by their deportment in their respective communities.[7] The call of Anderson for blacks to prove their worth may have been an attempt to have blacks provide living refutation to the calumnous charges frequently leveled against them by the white press. For instance, Anderson refers in the same editorial to a derogatory article in the columns of the San Francisco Irish Nationalist. The Nationalist, he said, low-rated blacks, calling them such things as "miserable wretches". But to think that meritorious behavior alone would effect an advancement toward social/polical privilege is fallacious.

In terms of the negative Irish attitude toward blacks, it was the admirable black industriousness, itself, which was a major contributing factor. For an ongoing tension had developed across the country between blacks and Irish immigrants, based mainly on

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[6]For details of this story see Gibbs, op.cit., pp.49-50.
[7]Sept. 12, 1863, p.2.

Irish competition with blacks for available jobs in the cities.[8]

Whether on Anderson's advice or otherwise, agitation for the franchise failed to materialize at that time. The franchise issue was not again brought to the fore until April of 1865, when an A.M.E. Bishop, J.P. Campbell, called up the subject in a benefit address delivered at Zion Church, San Francisco. The speech, entitled "The War and Its Issues", reviewed the history of black suffrage in America. Bishop Campbell pointed out that blacks had cast ballots for members of the first Congress, the one which issued the Declaration of Independence. But since those early years the Republic had been run by slaveholders in the interest of slaveholders. Then as slave interests felt their power slipping away, they initiated the Rebellion, which, fortunately, worked contrary to their designs. At this point, concluded Campbell, the only wise and productive policy for national and State government to follow was political and personal enfranchisement for blacks.[9] This conclusion of the Bishop pointed to the fact that Negro suffrage had become more than an issue for local debate and decision. It now took on national proportions. For the government which had declared the Negro free had thereby obligated itself to defining that freedom and its privileges. Was freedom to mean citizenship? If so,

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[8]For a good, brief treatment of Irish-black tensions, including the possible Catholic vs. Protestant dimension of those tensions, see Litwack, North of Slavery, pp.159, 162-66. The tensions between Catholics and white Protestants are illustrated in the Pacific, the Advocate, and the San Francisco Monitor (the Catholic organ in California), which carried articles in almost every issue in the period on the clashes between Catholicism and American Protestant and democratic institutions.

[9]Elevator, April 7, 1865, p.2. Much of the material on the Negro suffrage struggle will be drawn from this source. The Elevator, established at just the time that suffrage protests began in earnest, took much interest in that cause. The paper followed closely the progress of the movement for black enfranchisement on both the State and national levels. Sometimes it reprinted pertinent materials from newspaper issues which are no longer available for primary research.

did it include all the rights and prerogatives normally acruing thereto? Moreover, how would the freedom of the black man affect the other elements of the society and the efforts of the nation to reconstruct itself and become a unified Republic?

Many Americans saw the demise of the nation in the elevation of blacks to full citizens' rights. In April, 1865 P.A. Bell answered an editorial of the Sacramento Bee which contained just such predictions of doom.[10] According to the Bee, "The maintenance and perpetuation of a Republican form of Government [sic] depends wholly upon the average intelligence and moral virtue of the people". Blacks, it contended, should not be allowed to vote because ninety-nine percent of them were ignorant and thus prey to unscupulous demagogues. Bell replied that in the North, the percentage of educated blacks was equal to that of whites; in the South black slaves demonstrated a natural shrewdness and a surprising knowledge of public affairs. As to virtue, said Bell, if crime statistics could be taken as an indicator, then blacks exceled whites in virtue. Their proven intelligence and uprightness would prevent them from succumbing to demagogues. To the Bee's statement that admitting blacks to the vote would be ruinous, Bell pointed to the example of Massachusetts, where blacks had always voted, and asked, "Is Massachusetts ruined?" In response to the charge that black enfranchisement would precipitate race war, Bell again held up the example of Massachusetts as proof to the contrary.

The following week Bell again found himself using the Ele-

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[10] Cf. Elevator, April 28, 1865, p.2.

vator's columns to defend the Negro's right to suffrage against attack from the white press. The San Francisco Morning Call carried an article which claimed that the rights of whites, not blacks, were most in need of delineation. Blacks already had the standard rights, it said. Suffrage was superfluous for them; the country could do without their vote. Bell retorted that the rights for which blacks were fighting were "God-given", not the fruit of white largesse. The shameful thing, said Bell, was that what rights blacks now had were restored to them out of necessity and under "God-scourging" [reference to the Civil War as God's act of purging and punishment].

In the same issue of the Elevator, the Rev. J.J. Moore penned an article on the elevation of the Negro race in which he called on the State and federal governments to "set [Negroes] right before the law" by removing the barriers to the vote, to the public school, and to equal business opportunities. He laid the charge to blacks to develop a socio/economic/moral power base within the black community that would conduce to independence and command white respect. In a second article, Moore thanked a certain Mr. McCullough for a ten dollar contribution to Zion Church, saying that it would not only help the church but would contribute to the elevation of the race. This seems to be in accord with Moore's statement in the first article that moral development (for which the church claimed primary responsibility) was one very definite requisite for elevation. If this relation was actual and intended, as it seems to have been, then we have an example of a pastor who saw the role of the black church to include direct, conscious involvement in the struggle for black elevation. In this same vein, Bishop Campbell, who had left Cali-

fornia April 22 on episcopal business, wrote to P.A. Bell pledging that,

> "For the work in which we are mutually engaged, namely: striving to do whatever we can for the great cause of God and human liberty, you shall have what you desire of me...I heartily desire to cooperate in every effort which has for its object the elevation and enfranchisement, as well as the spiritual regeneration of all mankind...."[11]

Black journalists and clergy were not the only ones in California working for Negro suffrage. Several Union newspapers were running articles in support of that cause. And a group of Sacramento blacks had recently met at St. Andrews A.M.E. Church in Sacramento to organize an Executive Committee to work with the San Francisco Executive Committee toward the franchise and other things necessary for black elevation.

The issue of Negro suffrage had, by this time, become a prominent national issue; it was being debated in every State legislature and seemed likely to be ruled on soon by Congress and the Supreme Court.[12] P.A. Bell felt assured that the national bodies would decided in favor of blacks; he urged his fellow blacks to help pave the way for that eventuality - to demonstrate an understanding of citizens' duties and to claim respect by the quality of their conduct. Attention to religion and morals was also declared to be vital to the black cause.

But the most frequent objections raised to Negro suffrage had not to do with quality of black conduct but with the social relations of blacks and whites. For example, a correspondent of the Pacific noted that the Declaration of Independence guaranteed that

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[11] Elevator, April 28, 1865, p.3.

[12] Cf. W.E.B. DuBois, Black Reconstruction in America, 1860-1880 (Cleveland: The World Publishing Company, 1967), Chapters 6-9.

in certain rights - life, liberty, and pursuit of happiness - all men were equal. But, he said, when these rights are asserted in regard to blacks they shock some politicians who suddenly feel they must marry a Negro.[13] The fear seemingly was that advancing blacks further toward full legal equality with whites would make them haughty; they would transgress fixed barriers to black-white association and intrude upon white social circles, especially to the point of the most intimate form of association, namely, sexual union. Blacks continually rejoindered that legal, not social equality, was their sole aim. For instance, Baptist preacher Amos Johnson argued that blood and kindred ties among blacks were just as strong as among whites and that miscegenation was equally repugnant to both races.[14] But whites would not let the issue down. It continued to be raised as an objection to any aspect of black elevation, even though whites were seemingly the chief initiators of interracial sexual liaisons.[15]

Another common argument raised against Negro suffrage, again unrelated to the matter of the quality of their behavior, was that political equality would lead to a "war of races". The San Francisco Morning Call proferred the war of races argument, attributing the civil wars of Mexico to the political equality and

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[13] April 10, 1862, p.2.

[14] Elevator, July 21, 1865, p.3.

[15] The correspondent in the above mentioned Pacific article concluded that the argument of "Negro equality" against persons advocating political equality was "political cant and party sophistry". But the issue actually went much deeper. For most prominent and most stringent among the laws of the various States circumscribing the lives and movements of blacks had always been those having to do with interracial relations. Cf. Lerone Bennet, Before the Mayflower (Baltimore: Penguin Books, 1966), pp.244-47, 265-66. The relation of sex and race relations in the United States is complex and needs much research. The reader is referred to a pioneering study on the subject done by Calvin Hernton, Sex and Racism in America. (New York: Grove Press, Inc., 1965).

widespread mixing of blood in that country. The editor contended that when "two or three races are placed on a footing of perfect equality, the result is a continual struggle for political power by one race against another."[16] California blacks countered the race war argument by attempting to show by argument and by the example of other countries, e.g. Brazil, that armed conflict need not result from the enfranchising of all of a nation's races, and, further, that there was no chance that such a conflict would occur in the U.S.

Taking the offensive in the suffrage debate, the Rev. J.J. Moore published in the Elevator "Fifteen Reasons in Favor of Negro Suffrage".[17] These fifteen touched on nearly all the arguments raised for and against Negro suffrage; in summary form, they were as follows:

1. Suffrage is a natural, God-given right, and it is indispensable to good government. Government without suffrage is despotic.
2. Though the country may allow the title of citizen to the Negro, he cannot be a citizen de facto without the right to vote.
3. Without the franchise the Negro has no sure defense of personal, civil, and religious liberty; he has no effective means of bringing sanctions against those who oppress him, or awarding significant support to those who deal fairly with him.
4. The force against Negro suffrage is a relic of oppressive, elitist systems of by-gone days; it is a threat to the Republican form of government.
5. By withholding the franchise, America subjects the Negro to "taxation without representation", an offense which the original colonies chose as the battle cry of the Revolution".[18]
6. The Negro has earned suffrage by the blood he has shed on every battlefield of American liberty and rights - from Bunker Hill to Richmond.

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[16]Found in the Elevator, May 26, 1865, p.2.

[17]June 2, 1865, p.2. None of the other city papers, secular or religious press, carried or even took note of Moore's "Fifteen Reasons".

[18]The Rev. T.M.D. Ward had raised the "taxation without representation" argument in the Convention of 1855, against the refusal to allow blacks to have their case represented in litigation involving whites. Gibbs and Lester used it in their defiance of the poll-tax.

7. Negroes deserve suffrage because they were, are, and will be loyal to the government, even though there are multitudes of whites who are traitors [referring to Rebel soldiers and sympathizers].
8. The Negro needs suffrage for protection against immigrants, who align themselves against the Negro. The Irish are a notable example.
9. God demands that the Negro be admitted to suffrage, a right which He has given; He will reap a judgment of vengeance until the nation concedes this right.[19]
10. The Negro should have the franchise because there is no sound argument against it. For example, it is said that Negroes are too ignorant to vote. But what about the Negroes who are educated? And what about the whites who are ignorant, but still vote. Even illiterate immigrants reared under despotism in their native lands vote here. Negroes, though they have been slaves, are superior to them, for Negroes have lived at least "in the shadows" of republican institutions and know something of what good government is.
11. Negro suffrage is, in effect, commanded by the U.S. Constitution. Article 4, Section 2 says, "The citizens of each State shall have all the rights and immunities of citizens in the several States." Since New York grants Negro suffrage, all other States must honor it.
12. To disfranchise the Negro would be to fall behind even lord-ridden England, where black citizens do vote.
13. Negro suffrage, now practiced in New York and Massachusetts, has never been proven to accrue to the detriment of the country nor to lead to social equality or race amalgamation.
14. If statesmen and history are correct that widespread political disfranchisement weakens a country, then denial of suffrage to America's huge contingent of Negroes is detrimental.
15. The only way the country will rid itself of the aggravation of the agitating "political nigger" is to grant suffrage.

It is difficult to judge the effectiveness of the Rev. Moore's "reasons". There is no evidence of immediate, numericaly significant reversals of white opinion on the suffrage issue. The fact that the article was published solely in the Elevator, a journal with a small, mainly black readership, rather than a large, white paper limited its potential effectiveness from the start. But some whites did read the Elevator, including many newspaper editors.

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[19] Moore included no specific Biblical references to support this claim. He was apparently arguing the idea that denial of the franchise was oppression and God opposes all human oppression. See above Chapter I

It is possible that Moore planted, or nurtured, seeds which later bore fruit in the increasing journalistic and popular support of Negro suffrage.

While the suffrage battle was being fought in the press, preparations were underway to take more direct action. The mass meeting of blacks in Sacramento which selected an Executive Committee and placed the Rev. James H. Hubbard in the presidency, adopted the Elevator as the official black news organ in the State and proposed a State-wide convention of blacks to address the franchise issue. The San Francisco Executive Committee three weeks later called a public meeting at Bethel Church to discuss the calling of a State convention on the franchise issue. The Revs. Moore and Barney Fletcher[20] were among a committee selected by the meeting to draft an Address and Resolutions justifying and formally moving the convention idea; the report of the committee was adopted. The Executive Committee then sent letters to blacks throughout the State urging them to gather the blacks of their respective areas to poll their feelings on the convention idea. The response to the letter in the following weeks was overwhelmingly positive. And the blacks of Stockton, in addition to endorsing the convention proposal, formed an Equal Rights League; in San Jose, blacks elected a temporary auxillary to the San Francisco Executive Committee. As a result of this positive response, a formal convention call was published in the Elevator. It summoned California's blacks to send their chosen representatives to Sacramento for a session beginning Wednesday, October 25, 1865, to consider and make plans around issues vital to the black community, the suffrage question in particu-

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[20]The Rev. Fletcher was an A.M.E. preacher who had come to the State in the early fifties. He was a native of Maryland but lived in Alabama before coming to California. Cf. Siracusa, "Black 49ers", Appendix C, p.9.

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But all of the State's blacks were not of one accord. The first indication of this was a black San Franciscan's comment that San Francisco's blacks had too many "old fogy" leaders, who had led the people for fourteen years but who were not sensitive to the new state of things. Peter Anderson, editor of the Pacific Appeal, was named as one such leader. Subsequent events showed Anderson to be at the head of a segment of blacks who opposed the convention idea. Some feared that the convention was being called for sinister motives, for example, to kill the Appeal. Anderson, himself, was bitter in his opposition; he termed the convention "ridiculous, unnecessary, and uncalled for"[21] In his thinking, and many who followed him, the convention was premature and counter-productive. The advisable alternative would be to wait and let the Legislature work out the matter of black rights. Presumably Anderson felt that political agitation would only antagonize the Legislature and thus postpone the granting of political rights. But despite Anderson's influential opposition, plans for the convention proceded apace.

The climate of opinion in California regarding Negro suffrage showed some encouraging signs of increasing receptivity. A number of white news journals across the state declared in favor of Negro suffrage; they argued the black man's right to the vote on the basis of his respectability, his battle service, and his knowledge of, and loyalty to, the American government.

Colonel E.J.C. Kewen of Los Angeles declared in favor of Negro suffrage, even though he was a violent Copperhead[22]; he

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[21] Quoted in Elevator, October 20, 1865, p.2.

[22] The term Copperhead was commonly used in reference to Northerners who sympathized with the Rebellion. It derived from the venomous viper of the same name.

said it was the verdict of the war. And the Methodist Annual Conference took a firm stand in favor of Negro suffrage. The Conference declared that,

> "They /blacks/ are men, and as such are 'endowed with certain inalienable rights; which rights in their nature imply a political power adequate to their own protection."

Blacks also should be elevated, said the Conference, in order to remove them as easy prey for whites and therefor "...prevent that foul offspring of slavery, shameless miscegenation"[23] The Conference therefore resolved,

> "...That we will steadily maintain the right of colored citizens, and all other citizens, on the same terms, to that inestimable franchise of freedmen, the ballot-power".[24]

The Congregational General Association took a stance equally as firm. The Association had always pronounced against slavery in the State and the nation. Now that the War had brought an end to that vile institution, the Association adopted this position:

> Resolved, That we are in favor of the immediate enfranchisement of all such men of full age, without respect to color, birth, or other circumstances, who are not now voters, as have served in our armies during the late war; and all of such other men, without distinction, as are able to write their names and to read the Constitution of their County, /sic/ in English.
>
> Resolved, That we earnestly desire the Legislature of this State, at its next session, to ratify the proposed amendment to the National Constitution, abolishing slavery, and to adopt such measures as shall give to all our fellow citizens, without respect to color or other circumstances, not involving crime, the right to vote, and all other rights of freemen..."[25]

But the leading papers in the State, such as the San Fran-

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[23] This seems to indicate a rejection of so-called "social equality" though advocating political equality.

[24] Minutes of the California Annual Conference of the Methodist Episcopal Church Thirteenth Session, 1865 (San Francisco: Towne and Bacon, 1865), pp.17,18.

[25] Minutes of the Ninth Annual Meeting of the General Association of California 1865 (San Francisco: Towne & Bacon, 1865), pp.21-22

cisco Examiner and the Sacramento Union continued to oppose the vote for blacks. Even the supporting San Jose Mercury opined that Negro suffrage was not a crucial issue for the Union party; the people would eventually grant blacks the vote. And the State's Democrats seemed determined in their opposition. At their State Convention in September, they adopted a set of resolutions whose main feature was opposition to Negro suffrage and to any form of black-white equality, whether political, social, or otherwise. The Union Convention adopted a resolution calling for a U.S. Constitutional Amendment ending slavery. But on the sensitive issue of Negro suffrage the Convention was silent.[26] And at least one of the men nominated for office on the party ticket, Frank Pixley, had been known to speak against suffrage for blacks. The reticence of California's Union politicians on matters of black rights dismayed and irritated blacks. The Rev. Moore angrily accused them of pursuing a "time-serving, truckling course".

The situation on the national scene was as mixed as that in California. Some newspapers in Oregon and Nevada supported Negro suffrage. In the latter State, blacks met intermittently during June and July at black churches and formed a State Executive Committee to work for the franchise and other rights. The July 12 meeting at Committee member Rev. J.T. Jennifer's church (A.M.E.) voted to cooperate with the California State Executive Committee toward their common goals. Blacks in Vicksburg, Mississippi and New Orleans were also organizing to agitate for the franchise. The Philadelphia Enquirer said that fifty nine of the papers with which it exchanged favored Negro suffrage. The Kennebec (Maine) Journal called upon Congress to institute Negro suffrage by Con-

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[26]Hittell, History of California, p.395.

stitutional Amendment, just as it had eliminated Negro slavery by the Thirteenth Amendment.

If these developments were encouraging to black Californians for the success of Negro suffrage, considerable discouragement was provided in that the spirit of rebellion seemed hard in dying. Secessionists were being nominated for high positions in many States, including California. Some of these men would soon be headed for Washington to take seats in Congress, there to wield their proscriptive influence. Moreover, President Johnson in his Reconstruction program seemed to ignore the black man and his citizens' rights.[27]

Thus, California's black citizens faced mounting support but strong opposition in their effort to gain the franchise. Their analysis of the dynamics of the national situation dictated that if a move was to be made there should be no delay. In a letter to the Elevator, published June 23, a group of blacks in Benicia expressed their realization that many whites were willing to help the black cause. They have already done much, said the letter, though it was done for the safety of the nation, not ultimately for the Negro's good. They let blacks fight in the war out of necessity, for their (whites) self-preservation. Now that the danger is passed, they will soon feel that they are secure and need give blacks no more. Blacks, then, must press their claims now before retrenchment occurs.[28]

Across the State, blacks who had endorsed the convention idea met and selected delegates according to the per-county quota

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[27] Cf. John Hope Franklin, Reconstruction: After the Civil War (Chicago: University of Chicago Press, 1961), pp. 59-74, 127-32

[28] Many black Californians held the belief that their Emancipation and other acts of white "liberality" were the result of political and military necessity. Cf. Elevator, July 21, 1865, p.2; September 8, 1865, p.1.

included in the convention call. At the well-attended San Francisco meeting at Bethel Church, J.B. Sanderson was elected chairman of the meeting.[29] The Rev. Moore read a preamble and resolutions which were adopted as the platform of the San Francisco delegation to the convention. The document said, essentially, that the time had come for black men to look carefully toward those things which elevated them in the eyes of their white overlords and which advanced the black man's condition. These things were "the maintenance of moral and Christian institutions, the practice of Christian morality, piety, and the securing of wealth, general education, and a fixed standard of social responsibility."

Thirteen men were elected to represent San Francisco, including Moore, T.M.D. Ward, and Peter Anderson. The inclusion of Anderson is worthy of note. As aforementioned, Anderson had strongly opposed the convention, preferring to await the action of the Legislature on the suffrage question.[30] But according to contemporary sources, Anderson, seeing that the convention was surely to be held, started a drive to organize a rival convention for December 10. He even falsely represented men as supporting his convention call. Failing in his effort to raise a counter-convention, Anderson sought to be elected on the San Francisco delegation to the October convention. Allegedly he scoured the bars, dives, and sailors' hotels coaxing and buying supporters for his election.

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[29]The following account of the meeting and comment upon it are based on the Elevator, October 6, 1865, p.2,3.

[30]The stand of Anderson was not without irony, and possibly some vengeance. In 1863 Anderson suggested calling a convention on the testimony bill. It was deemed improper at the time by P.A. Bell and others because, among other things, the bill was being considered in the Senate, the Assembly already having passed it.

The actions of the clergy in regard to this meeting were also called into question. P.A. Bell and a man with the nom de plume Autolycus claimed that Sanderson and his cohorts [presumably other clergymen] came with a slate and a program already prepared, seeking to ramrod it through, at which they were successful.[31] Bell implied that the clergy "rounded up" extraneous non-Churchgoers to come in and support the slate and program which the clergy presented. He charged that the ministers affiliated in the meeting with "rowdies, gamblers, and disinterested persons", and that Sanderson was shamefully partial as chairman. Whether these charges were true or not, the clergy were apparently anxious to have some input in the October convention, possibly to assure that its decisions would reflect their concern with "the practice of Christian morality and piety."

The selection meetings in other areas were apparently without the incitement and intrigue of the San Francisco session. San Jose reported only that a delegate was selected and that resolutions were passed condemnatory of the course of the Appeal in calling an opposition convention. The blacks of Marysville met at the Colored Baptist Church and elected both convention delegates and a standing county Executive Committee.

With convention delegates chosen, the tasks remaining were, first, to collect statistical data on blacks in the various counties to be presented by the delegations at the convention, and second, to collect monies to defray the expenses of the delegates. For this latter purpose the San Francisco black Churches lifted a

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[31] The contents of the "slate and program" are not specified but this may be a reference to the two members of the clergy elected as delegates and the document of the Rev. Moore, adopted as the delegation's platform.

special offering. (The black churches of other cities probably did the same.)

On the appointed day of the Convention, thirty delegates assembled at Bethel A.M.E. Church, Sacramento, to begin four days of speech-making, deliberation, and strategizing. In the group were representatives of all classes of black society and a variety of occupations, including seven members of the clergy. It may be that the large showing of the clergy was responsible in part for the high principled, religious tone of the Convention and its pronouncements; heavy emphasis was placed on affirming and cultivating the spiritual and moral resources necessary for success in the battle for human rights. This emphasis will be apparent in the following account of the Convention proceedings.[32]

The Convention delegates chose F.G. Barbadoes for the presidency, P.A. Bell as secretary, and the Rev. P. Kellingworth as Chaplain. After a "telling and patriotic speech" by the Rev. Amos Johnson, president Barbadoes addressed the assemblage, pointing up the primary object for their deliberations, namely, the question of Negro suffrage, which he dubbed the most important question of the day, affecting the Negro race and also the safety of the nation.[33]

Following the president's speech, the Rev. Ward secured passage for his motion to establish committees on Business (i.e. Convention business), Education, Public Morals, Industrial Pursuits, Finance, Statistics, and Elective Franchise.

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[32]Materials on this, the Fourth Colored Convention, are taken from Proceedings of the California State Convention of Colored Citizens. (San Francisco: Elevator Printing Office, 1865); also, Elevator, issues for November 3, 10, 17, and 24, 1865, passim.

[33]Elevator, November 3, 1865, p.2f.

The Business Committee, under the chairmanship of the Rev. Moore bore the responsibility of formulating the Convention's official policy and plan of action in regard to the primary issue at hand, the franchise. The Committee's report opened with a preamble expressing the belief that the Civil War was the terrible stroke of God's "Divine Justice", taking retribution for "the crime of slavery". There ensued a series of resolutions. It was resolved that the State and country maintain "true Christian and moral institutions, under the direction of faithful and pious leaders."[34] Another resolution spoke of a new love for the Union and declared that if the Government would be just enough to grant blacks their full rights they would freely flock to its standard, to defend it against all foes, foreign and domestic. Resolution number twenty-three urged that a day of prayer be set aside by blacks throughout the country "that Almighty God may control the nation's council at its next meeting, to ensure its legislation in favor of justice, humanity, and equal rights to all men." The plan for immediate action was contained in the resolution which recommended that a petition be circulated and sent to the State Legislature, asking that body to amend the Constitution so as to admit black men to the right to vote. This appeal, said the report, was based on the Golden Rule, on man's natural equal rights, and on maintaining the principles of the Republic. To carry out

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[34]This is seemingly in contradiction to the principle of separation of Church and State. But while direct, administrative ties between these two spheres were not expected, both blacks and whites expected that the civil institutions of the country would reflect a Christian character. For instance, John Swett, who had served as State Superintendent of Public Instruction in the 1860's, wrote in later years that a primary responsibility of a teacher toward her students was "the formation of an honorable, upright, Christian character...." Cf. History of the Public School System in California (San Francisco: A.L. Bancroft and Company, 1876), p.155.

the petition campaign and any other business of the Convention, it was resolved that a State Executive Committee be formed, with auxillary committees in each county; J.J. Moore was named recording secretary of the State committee. The report of the Business Committee was adopted essentially as presented. A copy of the petition to be sent to the Legislature was included in the published convention Proceedings.

In order to keep the condition of blacks in clear perspective, delegates had been asked to bring to the convention statistical data on blacks in their respective localities. Among these data as compiled and reported by the Statistics Committee were the following figures:[35]

County	Population		Literate Adults	Churches	Schools	Property (Church, Business, Private)
San Francisco	adults	1600	not given	2	4	750,000
	children	250				
Sacramento	"	470	375	2	not given	141,845
		150				
Yolo, Colusa, Tehama	"	38	35	not given	none	69,500
		35				
El Dorado	"	265	223	1	none	75,000
		40				25,000
Santa Clara	"	55	not given			
		20		1	2	25,000

As was the case with the petition for the oath, the appeal was for the rights of blacks. Though in the Convention a deep concern was expressed for universal freedom, the strategy apparently was to keep the issue simple and to disassociate the blacks' cause from that of other, possibly more objectionable groups. In light of a growing antagonism among white Californians to the also disfranchised Chinese population of the State, this black strategy seems

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[35]The complete statistics are found in the Proceedings, pp. 12-14.

to have been perceptive and wise.[36]

The report of Committee on Public Morals, composed of the Revs. Moore, Hubbard, and Kellingworth stated that the chief ennobling element of a people was their strict observance of morals and religion. And since the enemies of blacks seize every opportunity to misrepresent their character, blacks should adhere faithfully to morality and religion; this would illumine their lives and bring credit to the race. Further, gambling houses, saloons, and licentiousness should be shunned "with all alarcity". The report was adopted unanimously.

The Committee on Industrial Pursuits, chaired by the Rev. Ward, urged blacks to acquire farmland, whether independently or cooperatively, and become independent producers. The Education Committee pointed to man's obligation to develop his God-like reasoning faculties, for which education was necessary. Therefore the Legislature was to be petitioned for school privileges for blacks, and black Californians were asked to contribute monies toward the existing black private elementary school run by the Rev. P.W. Cassey in San Jose.

One special committee was appointed during the proceedings, the Committee on Condolences. Its task was to compose a formal tribute to those outstanding black Californians who had died since the Colored Convention last met. Such a one was Willian H. Newby, a pioneer in protesting the injustices against blacks on the Pacific Coast. Newby, a man of great learning and ability, had been called away from California by promising occupational oppor-

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[36]That is, wise in terms of the proximate attainment of the franchise for blacks. However, social strategies may question whether in the long run it is wise, or ethically defensible, to seek justice for one dispossessed group to the exclusion of others. The issue of the Chinese in relation to Negro suffrage is discussed below, pp. 134-35.

tunities. But ill-health forced him to return. He had only seen twenth-eight years when his health slipped beyond reclamation.

Resolutions were not the product of committees alone; any delegate might formulate and offer them. In the preamble and resolutions of J.R. Starkey, reference was made to the dispute and divisions which had long plagued the California black community's efforts for elevation. Starkey urged each delegate upon returning home to work toward the creation of a unity of feeling and action among his people. This offering of Starkey was indeed timely, given the dissention which had surrounded the organization of the Convention, itself. And even during the Convention a dispute arose when a Mr. R. H. Small moved that Peter Anderson be added to the Statistics Committee. He charged that president Barbadoes had shown partiality in appointments to committee. Barbadoes left the chair to defend against this charge. He said he did not deem Anderson fit for any position in the Convention because he had opposed it and then used unfair means to get himself elected to it. Anderson, continued Barbadoes, still had not reversed his position of opposition to the Convention or his claim that its organizers were acting from sinister, dishonest motives. At that point Anderson entered the fray. He contended that he had been duly elected and that he would appeal to his constituents. Several others joined in the debate. When the question was finally called on Small's motion it failed to carry. It is possible that the vote of the Convention against Anderson was in itself a statement against disruption in the black rights cause and in affirmation of the need for the unity to which Mr. Starkey had appealed.

Drawing more discussion and debate than any other item during the Convention were resolutions which looked beyond the pre-

dicament of California's black citizens to the issue of freedom and justice for all men everywhere.[37] Mr. W.H. Yates, offered a resolution in sympathy with the Irish Fenian movement for independence from Britain. He said that when blacks had obtained their full citizenship that they should then give tangible support to the Irish; 40,000 colored troops could be raised to help shake off the yoke of bondage to England.

William H. Hall supported this resolution, dismissing the Irish prejudice against blacks as the work of politicians. He joined with Yates in expressing support of the universal liberation of man. But the Rev. J.H. Hubbard opposed the resolution. He charged that the Irish were the most deceitful of all nations. And, in what may have been a remark of sectarian bias, Hubbard said the Irish were largely controlled by the Roman Church in their abuse of blacks. He alluded to the published statement of a Bishop Hughes, a Union man who returned from his trip to Rome a Copperhead.[38] Other delegates concurred in Mr. Hubbard's indictment of the Pope and the Catholic Church. P.A. Bell rejoindered that Hughes never was a sound Union man. Messrs. Samll, R.H. Hall, and Hoyt generally favored the resolution. Mr. Hoyt spoke also of the needs of Indians and Chinese; he declared his belief that "...God will break down the barriers over right...."

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[37] The debate is found in the Proceedings, p.12.

[38] Throughout the nineteenth century black Christians were overwhelmingly Protestant, falling mainly within the Baptist and Methodist denominations. Catholics made energetic attempts at proselytizing blacks, but blacks seemingly were more amenable to the evangelical style of Baptists and Methodists than to the ritual and dogma of the Latin Church. The most notable Catholic successes in gathering black converts were in the cities of Baltimore, Washington, D.C., Mobile, and New Orleans. For discussion of the Catholic outreach to blacks see Carter G. Woodson, The History of the Negro Church (Washington, D.C.: The Associated Publishers, 1921) pp. 1-6, 98; Willis D. Weatherford, American Churches and the Negro (Boston: The Christopher Publishing House, 1957) Chapter VIII.

At this point the men decided to table the matter for the time being. When it came up again the next day there again arose an extended debate. Finally the matter was referred to the Rev. Moore's Business Committee. But Moore personally offered a substitute motion which stated that the black men of California were friends to every effort to overthrow oppression, whether personal servitude or political disfranchisement. Hence they gave hearty approbation to the Natinnal Independence struggle in Ireland, despite Irish hostility towards black men in this country, since that, they concluded, was incited by the ill-named Democratic party. Furthermore, blacks, themselves, had cause for grievance with the British, given the hypocritical conduct of many British leaders in the recent Rebellion.[39]

This substitute motion of Mr. Moore was unanimously approved. It was a testimony to the character and magnanimity of spirit of these black men that in the midst of their own struggle they could yet be concerned about the plight of others similarly afflicted, even those who were sometime enemies to blacks.

After four days of deliberating, planning, speech-making and resolving, the thirty delegates to this the Fourth Colored Convention determined that the time had come to return to their respective homes to be about the tasks set before them. And so, after singing the "Battle Hymn of the Republic" and receiving the benediction of Chaplain Kellingworth, the Convention adjourned, sine die.

The Convention commissioned the publication of two Addresses

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[39] Ibid., p.23.

to the people of California.[40] One Address presented the bases upon which blacks claimed the right to equality before the law; the arguments were similar to those in Moore's "Fifteen Reasons".[41] The other Address is notable in that it bears on the earlier reference to the religious tone of the Convention. In giving the purposes for which the Convention met, the Address lists: to obtain the franchise, to encourage education and the trades, "to promote temperance, morality and frugality---and to advance the cause of TRUTH, VIRTUE, and Christian piety." [sic] Two small paragraphs later, in enumerating the subjects deliberated by the Convention, it reads:

> "First - and most important is the position we took as regards Truth, Virtue, and Christian piety. Although the discussion of these subjects was not the primary cause for which the Convention was called, yet they overbalance all other subjects, for without them no good can be accomplished. We took high ground on these subjects, and we earnestly invite your attention to the report of the Committee on Public morals....".

In terms of the chief discussion of the Convention, that on the franchise, the Address says it was handled "with prayerful consideration". Black Californians were urged to form local social action committees and to support them by "industry and observance of the Christian virtues." The Address closed with the words, "May God keep and preserve you in the paths of usefulness." Infusing this address, as well as the Convention Proceedings, was the indication of a strong belief in the active presence of the Deity, ratifying the rights movement and providing the spiritual resources necessary to effecting victory.

Upon returning home the delegates held meetings of their

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[40] Texts of both Addresses are found on pp.26-28 of the Proceedings.

[41] See above, pp. 115-16.

constituents to report on the Convention. In some cases county committees were established as directed by the Convention. The petition to the Legislature was presented during the first week in December, at which time it was referred to committee. In the same week, Assemblyman Holden introduced a resolution opposing Negro suffrage, and Assemblyman Long presented a bill to restrict the immigration of free blacks into the State.[42] Both the Holden and the Long items were voted down by the Assembly shortly after their original presentation. These counter moves by known Copperheads were probably not as discouraging to California's blacks as the slight to their suffrage drive in Gov. Low's biennial message to the Legislature. The Governor advocated Negro suffrage - in the rebel States. He said that if given the vote, loyal freemen there could join with the minority of loyal whites to elect sound men to the national government and put the rebel States back on a firm foundation.[43]

There is a degree of Northern hypocrisy in Gov. Low's stance. For he counseled the South to remove the mote from its eye while California persisted in retaining the beam of black disfranchisement in its own eye. And the Southern States were smarting under this type of one-sided treatment. President Johnson knew, and made it known to the South that the victorious North would not likely abide the readmission of the rebel States as long as they insisted upon any major infringement of the rights of their black citizens. Yet Johnson, himself, did not feel that the establishment of Negro suffrage should be a condition for readmission. It was dangerous and "impolitic"

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[42] Journal of the Assembly (Sacramento: O.M. Clays, State Printer, 1866). p. 41: Elevator, December 1, 15, 1865.

[43] Journal of the Senate. 1865, p. 57. The Pacific commended this aspect of the Governor's message, saying that the suffrage recommendation had been "made with becoming delicacy, but great significance." December 21, 1865, p.1.

As to general Negro suffrage, Johnson claimed to favor Congress being empowered to extend suffrage to any Negro who proved himself a loyal, intelligent, responsible citizen. But he insisted that the early years of the nation's post-war Reconstruction were the wrong time to push the issue. When a bill was introduced in Congress in January of 1866, providing for the enfranchisement of the blacks of Washington, D.C., Johnson opposed it. He said that agitation for District of Columbia Negro suffrage would be an entering wedge for agitation of the question of Negro suffrage in all the States. And such a movement would be ill-timed, uncalled for and harmful. Johnson said he feared the issue would engender enmity, cause injury to both races, and eventuate in a race war, with consequent extermination of the Negro.[44] Therefore, bills and constitutional amendments aimed at Negro suffrage would be unwise. If any amendment was to be added, said Johnson, it should be one embodying the current proposal to base a State's Congressional representation on the number of its registered voters. This would provide incentive to increase the number of voters and presumably States would override their prejudices and make voters of blacks in order that they might swell the voting rolls. But, continued the President, any action on behalf of Negro suffrage beyond this would be imprudent. Priority should rather be given to more important legislation on Reconstruction, the people of the country and their prosperity.[45]

The logic of this position of President Johnson points to a

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[44]This was based on the notion that such strong animosity existed between whites and ex-slaves, resulting from the cruel slave experience, that voting would be vindictive and vengeful, rather than in consideration of the candidates' qualifications in terms of the needs of the country.

[45]For further discussion of Johnson's views on Negro suffrage see Franklin, op.cit; Richard Bardolph (ed.) The Civil Rights Record (New York: Thomas Y. Crowell Company, 1970), pp. 28-29.

low evaluation of blacks, one which relegates them to, at best, a secondary place in the American community. If blacks were considered by Johnson to be a full-fledged part of "the people", then the matter of their suffrage, since suffrage was crucial to their "prosperity", would be a part of the priority legislation he called for. Apparently Johnson shared the feelings of the white Californian who said that the vote was not necessary for blacks; their welfare (like that of women and children, implied) could be seen to by white men.[46]

California's black men thus had no strong advocate of their enfranchisement in the national administration. As a matter of fact, what protections and rights blacks stood to enjoy as a result of the Freedmens' Bill were nullified when President Johnson vetoed that legislation in February, 1866. If further evidence was needed of the tenuousness of the blackman's future standing in the country, from the Administrations point of view, it was provided when, in the next month, Johnson vetoed the Civil Rights bill.[47]

Johnson's apparent panderings to Southern sentiment were not altogether popular among his Union party members and a movement for impeachment was launched against him. But black Californians pursuing the franchise were now faced with an obstacle which was to prove more formidable than the President's antipathy: the issue was raised by some white Californians that granting suffrage to blacks would necessitate extending it to the Chinese, also, the latter action possibly being more objectionable than the former. Californians were becoming alarmed over the large

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[46] Cf. Elevator, May 5, 1865, p.2.
[47] Cf. Franklin, op.cit., pp.59f.

and increasing influx of Chinese into the State.[48] Because the Chinese immigrants represented a plentiful supply of cheap labor whites feared that they would glut the labor market, depressing both wages and working conditions. Blacks saw in the Chinese serious competition for menial labor employment, the type to which blacks were generally restricted. Both blacks and whites seemingly were irritated by Chinese tenacity in maintaining their alien culture and religion, as opposed to becoming "Americanized". As Chinese immigration increased, so also did white antagonism to the Chinese presence. Blacks did not oppose Chinese enfranchisement, but realizing the public mood, they sought to seperate the question of black rights from that of Chinese rights. When in January of 1866 an edition of the San Francisco Morning Call raised the issue of black enfranchisement carrying over to the Chinese, P.A. Bell took the occassion to respond through the Elevator's columns.[49] He chided whites for not wanting to extend resident's rights to the Chinese, whom whites at one time encouraged to come. However, said Bell, such an extension would not be called for. The Chinese would not become naturalized citizens; they were too fond of their own customs and manners. They returned home as soon as they had accumulated a desired sum of money. Then Bell summarized blacks' position on the matter: "We make no issue on the Chinese question; let them 'paddle their own canoe'; but if asserting our rights involves theirs, why let it come."

In the same article, Bell offered an analysis which pointed to what he saw as the real underlying dynamic of the white vs.

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[48]For a concise treatment of Chinese immigration to California and the social tensions which it aroused, see Robert Cleland, A History of California (New York: The Macmillan Company, 1939), pp.415-19.

[49]January 19, 1866, p.2.

black/Chinese dilemma raised by the Call and likeminded whites: "The Call seems to be imbued with the idea that this is the white man's country, and that Negroes and Chinamen have no rights which white men are bound to respect". The "white man's country' theme was not new in California; it had been heard as early as the Consitutional Convention of 1849; it had been implied in the arguments made in the years since then against black rights. It now stood forth with an apparently renewed vigor, possibly due to the frustration of negrophobists over the outcome of the War and the Reconstruction program.[50] A meeting held in San Francisco's Platts Hall illustrated the openness and rancor with which the feeling was sometimes expressed. There in one of the city's most popular meeting halls one Democrat harangued the crowd, roaring "Shall the nigger be allowed to eat in this white man's country?" The crowd responded with an emphatic "No". The speaker then told of the injuries the nation and himself had received from the "nigger". Then he asked, "Fellar citizens, shall we allow the niggers to wear clothes in this white man's county?" The crowd gave a ringing "No".[51]

Given this attitude among segments of the State's population, the anxiety caused by the Chinese question, and the Governor's expressed advocacy of Negro suffrage in only the Southern States, it is not surprising that the Legislature rejected the Colored Con-

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[50]The "white man's country" theme was part of a larger constellation of ideas involving the concept of the Anglo-Saxon's "Manifest destiny" and the nativist concern over the infiltration of American culture by other religious and cultural traditions. There was particularly the fear that Roman Catholicism would undermine American democracy. The California Christian Advocate in numerous of its issues carried articles on the negative social and political effects of Catholic influences. For additional information on nativism see Winthrop S. Hudson, Religion in America (New York: Charles Scribner's Sons, 1965), Chapter X.

[51]Quoted in Elevator, March 2, 1866, p.2.

vention's request for black enfranchisement. Following this rebuff by the Legislature, there was a lull in the suffrage movement. Some blacks probably became disillusioned with the prospects for success in the current circumstances, while others probably retreated to plan new strategy. At any rate, not much could be done for the present since the Legislature was soon to adjourn and, because of its biennial schedule, would not reconvene for a long while. And it was a long while before a corporate black thrust was again made toward enfranchisement.

A renewed effort finally emerged in August of 1867. The occasion was the Convention of the Phoenixonian Institute, an educational organization which sponsored the private school in San Jose taught by the Rev. P.W. Cassey. The three objects of the Convention's deliberations were education, industrial pursuits, and the elective franchise. On the last issue, the Convention resolved that a man should be commissioned to canvass the State to arouse black interest in renewing the fight for their rights.[52]

There is no evidence that this resolution was carried out, but canvassing with a different aim did take place in earnest among whites. It was election time and the Democrats were riding hard for a victory. One of the chief elements in their campaign strategy was attacking the Union party and its candidates for their stand on black-related issues. The intent seems to have been to thorouhly discredit blacks, then to convince the voters that the Union party was trying to foist a degraded class of people upon them. For instance, in August of 1867 a reader of the Marysville Appeal wrote to the editor that Democrats were seeking to preju-

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[52]Notes on the Convention were recorded by P.A. Bell, a delegate, in the Elevator, August 16, 1867, p.3.

dice the public against blacks by classing them with the Chinese and the digger Indians. Democrats, said the writer, claimed that blacks were naturally inferior and "that Negroes of California are illiterate, cannot read or write, and do not understand the institutions of this government." The writer, himself black, refuted this, saying that ninety five percent of all blacks on the Pacific Coast could read and write.[53] In the Elevator, editor Bell responded to this type of charge by saying that the plantation slave knew more about the workings of U.S. government than half the European immigrants on arrival.

Another key issue in the campaign was Chinese suffrage. Democratic office-seekers, including gubernatorial candidate H.H.Haight, argued that to give the vote to blacks necessitated also giving it to the Chinese. Blacks met this argument, as they had in years past, with the rebuttals that blacks were loyal, Americanized, native-born, Christian, and battle veterans. On the other hand Chinese were heathen sojourners who cared nothing for U.S. citizenships. Blacks said that they, therefore, had a claim to suffrage, whereas Chinese had neither claim no desire for it.

When election day came and the returns were tallied, the Democrats had won overwhelming victories across the board of State and local offices. Some blacks who tried to analyze the defeat of the Union party concluded that it was the result of that party's support of Reconstruction and black enfranchisement. Seemingly the Democrats successfully inflamed their hearers minds with harangues on Negro equality and Chinese suffrage. And the sentiments they encouraged apparently ranged wider than the Union camp.

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[53]The letter is reprinted in the Elevator, August 16, 1867, p.1. The quoted material was given as a quote by the writer of the letter; he apparently took it directly from a Democratic speech he had heard or read.

Peter Anderson, in the Appeal, said that the Union party claimed two thirds of the State's voters were in its ranks. This, said Anderson, indicates that in light of the overwhelming Democratic victory a great number of people, fearing Negro suffrage, bolted from the Union party to help Democrats keep the franchise from the Negro.[54]

But P.A. Bell offered a different analysis. He said that the issue in the election was the striking of the word "white" from the State Constitution, which would have opened privileges for Chinese, and this is what they were opposing. And though, says Bell, Democrats specifically spoke against Negro suffrage, it was most probable that had not the Chinese question been agitated, they would not have come out against Negro suffrage. One might find support for Bell's thesis in the manner in which the Negro and Chinese questions were related in the campaign rhetoric: Negro suffrage meant Chinese suffrage. One could understand the speakers to have been saying that "If we concede on the former, minor evil, we will logically be obligated to allow the latter, great evil, so let us squelch the whole matter." This is obviously the way Bell heard the speeches. And in fact, prominent San Francisco Democrats actively stated the case to him in those terms in private conversation.[55]

It may well be that white Californians feared suffrage for Chinese more than for blacks. Blacks had always been relatively few in number, remaining around one per cent of the total population, whereas the Chinese had attained to a large and ever-grow-

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[54]Appeal, September 14, 1867, p.2. A Napa subscriber to the Elevator said that the Democrats claimed they carried the State on the suffrage question. See Elevator, September 27, 1867, p.3.

[55]Cf. Elevator, November 8, 1867, p.2.

ing number, totaling 35,000 or 10 per cent of the population in 1860. Enfranchised Chinese would therefore control a considerable amount of power.[56] But it is not likely that the absence of the Chinese question alone would have swung the tide in favor of Negro suffrage. California's denial of black rights had been codified and strongly defended long before Chinese immigration became an issue of concern. And while the white fear of Chinese may have been Chinese numerical strength, their fear of blacks seems to have been in terms of the ambiguous "social equality" so often railed against and seemingly referring in large measure to inter-racial sexual relations. Note the observation of the black writer to the Marysville Appeal that Copperheads feared that giving blacks freedom would put their wives and daughters in the market for black husbands. They ask, said the writer, "Do you want Negroes to marry our sisters, our wives and our daughters?"[57] However it is possible that the conjoining of the issue of Chinese suffrage with that of Negro suffrage did serve to alienate some persons who might have been disposed to concede Negro suffrage and to further entrench those who already opposed it.

The California election did not go unnoticed by the national Administration. The New York Times stated that the President was reportedly very happy over the results of the California election; he viewed it as an endorsement of his present course and as a result would persevere in it.[58]

But other developments were afoot in the nation which were of

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[56] Population of the United States in 1860; the Eighth Census.

[57] From letter cited above in Elevator, August 16, 1867, p.1. The San Francisco Monitor, the Catholic organ, reprinted with apparent tacit agreement an article from the Albany (New York) Argus which spoke of the extension of black rights as a precipitant of "free love" and miscegenation. The foul state of things would be the result of the Republican drive for "Negro equality". Cf. January 29, 1870.

[58] Times, September 7, 1867, p.4.

determinative consequence for the attainment of suffrage by blacks in California and elsewhere. As a part of the Reconstruction program Congress declared universal suffrage in all of the once-rebellious Southern States. By September of 1867 New York and Ohio were moving to stike the word white from their Constitutions. Wisconsin and Tennessee had already removed their legal bans on black voters. But most portentious of all was the introduction at an extra Congressional session in 1867 of a bill to make suffrage the right of all U.S. citizens. Some black Californians took hopeful notice of this bill because many of them had reached the conclusion that only the Union Congress had both the power and the will to enfranchise blacks.

In California, itself, an effort was initiated to once again petition the State Legislature for the vote. In October of 1867 the San Francisco Executive Committee drew up a petition asking the Legislature to allow the people of the State to vote on a Constitutional amendment which would authorize the Legislature by a two-thirds vote to extend suffrage to blacks. The Committee was thus reaching for their goal step-by-step: since the ban on black voters was written into the Constitution, an amendment would be necessary in any case before the Legislature could be called upon to lift the ban. Once the door was opened by this amendment then the next step could be taken, namely, convincing the Legislature to grant suffrage.

The feasibility of petitioning, though, became a matter of debate among blacks. Some said that it was foolish and useless to petition a Legislature controlled by Democrats, who publicly opposed black rights. It would be better, they said, to wait for a more liberal body to take power or to look to Congressional ac-

tion. Others, however, responded that there was nothing to be lost by petitioning a Democratic Legislature. For a Republican body had already been petitioned in the past but to no avail. Petitioning, said they, was a right and a duty; it should be carried on perennially despite ill prospects. Eventually, because of the Negro's persistence and the justness of his cause, his full rights would be granted. The petitoning of Congress was not rejected by blacks of this persusion. On the contrary, it was seen as an advisable course to follow, for they believed that there was already a basis in the U.S. Constitution for the extension of universal suffrage by Congress.[59] But the petitioning of Congress was seen as a concurrent, not alternative, tactic.

The Executive Commitee sensed enough popular support for the petition idea to put the petition in circulation. As in the past, a number of white newspapers editorialized in favor of blacks' efforts for their rights. The petition was originally to be submitted when the Legislature convened in December. But for reasons unclear in the sources, the Committee waited until late February of 1868. It was not an uneventful wait. During this time blacks came under an official attack as strong as at any time in the past. In Washington, President Johnson, while calling himself the

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[59]J.J. Moore had long before introduced the argument on this point, namely, that Article 3, Section 2 of the U.S. Constitution guaranteed to the citizens of each State all the privileges and immunities of citizens in the several States. Since blacks could vote in some States they therefore had to be allowed this privilege in all. Moore said that in fact this article gave blacks the vote, without need for further Congressional action. So California was acting in violation of the Constituion by denying black suffrage.

"Black man's Moses", spent half of his Annual Message arguing the incapacity of the black man, the superiority of the white race, the dangers of "Negro supremacy", and the impracticability of Reconstruction. He disparagingly compared the Negro to the foreign voter. He made strong, even libelous denunciations of the Haitian and Liberian governments, offering them as examples of the barbarism which he said resulted whenever blacks had made attempts at self-government. This same disaster, claimed Johnson, would result if American blacks were allowed to enter the political process.[60]

In California, Governor-elect Haight's inaugural address was an echo of the President's speech.[61] The bulk of Haight's address was a critique of Reconstruction as a misguided, even malevolent penalizing of Southern whites. The chief and most destructive error of Reconstruction, as Haight saw it, was that it was taking the power of government from whites in the Southern States and giving it to black ex-slaves, who were "almost as ignorant of political duties as beasts of the field." In addition to being "subversive of rational liberty", this act of Congress violated the Constitutional right of each State to determine who of its citizens were qualified to vote. The people of California, said Haight, were expressly opposed to Negro and Chinese suffrage. The justice of this position, he said, was no more in question than in the case of the vote for women, minors, and unnaturalized foreigners. Further, "it [was] not a matter of inalienable rights

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[60] New York Times, December 31, 1867, p.1.

[61] The following discussion is based on the address as printed in Journal of the Senate, 17th Session. (Sacramento: D.W. Gelwicks, State Printer, 1868), pp. 96-107.

but expediency", that is, will the greatest good for all be served by confining the vote to whites or by extending it to blacks and Chinese? To do the latter would inflict "intolerable evils" on California. For instance, it would "introduce the antipathy of race into political contests, and lead to strife and bloodshed." Furthermore, continued Haight, the "inferior races" had some rights already; they didn't need the franchise, too; whites could handle the government without their help. At any rate, these races "will never, with the consent of the people of this State, either vote or hold office." Then after cirticising Chinese immigration for its crowding of whites out of the job market, Haight voiced the sentiment which had been expressed and apparently widely held among whites since the founding of the State: "What we desire for the permanent benefit of California is a population of white men...."[62]

Nearly all the current arguments against Negroes and their suffrage were contained in this address. One notable feature, though, was the implication at a number of points that a strong deterrent to granting Negro suffrage was the fact that justice would "equally require the ballot to be given to the Chinaman". This aspect of the address lent credence to P.A. Bell's analysis of the results of the September elections.

The guantlet thrown down by President Johnson and Governor-elect Haight was taken up by two black preachers. The Rev. J.B. Sanderson, in an Emancipation Day[63] oration spoke to the often-raised spectre of "Negro supremacy" and to the "white man's coun-

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[62]The Pacific rebuked the Governor for his statements, saying, "We regard the tone of the message as illiberal, and its fears unmanly. It does not become a Christian to be afraid to do right." Cf. December 12, 1867, p.2.

[63]January 1, the day the Emancipation Proclamation became effective. It remains today as one of the primary holidays on black church calendars.

try" theme. The first, said Sanderson, is a false charge against blacks, possibly growing out of the fear that given an equal chance blacks would achieve the supremacy. To the second theme, "white man's country", Sanderson declared that "We derive the right to dwell here from Heaven". And of those whites who would rather that the issue remain on a terrestrial level, Sanderson demanded to know wherein was the white man's valid claim to the land, since he stole it from the Indians.[64]

J.J. Moore, a veteran of journalistic combat, countered the depradation of the black man and his ability to carry on an orderly society with historical facts on blacks' background in Africa. He cited the prosperous, long standing kingdoms of West Africa. To Haight's argument that blacks, in the manner of women, children, and foreigners, did not need the vote, Moore responded that white American men protected women and children, treaties protected foreigners (including the Chinese), but American blacks had no protection. Each major anti-Negro argument of Johnson and Haight was answered by a reasoned counter argument.[65] But Mr. Moore did not rely solely upon the strength of his own forensics for rebuttal and contravention of these discriminatory approaches to black rights. For before the Johnson and Haight speeches were delivered he had said in an Elevator article that blacks would persist in their struggle and would,

> "...trust in the God of Eternal Justice and Right, who pours contempt upon princes, and still holds in reserve the awful sentences Mene, Mene, Tekel Upharsin, for Nations that trample upon the laws of His moral government." [sic][66]

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[64]Text of the oration was printed in full in the Elevator for January 3, 10, and 24, 1866, pp. 2, 1, and 1, respectively.

[65]Ibid., December 20, 1867, p.2.

[66]Ibid., December 6, 1867, p.2.

And yet, heedless of any Divine wrath it might incur, the Senate on January 9, 1868, received and referred to committee a bill reaffirming California's opposition to Negro and Chinese suffrage and to any effort of Congress to intrude upon any State's right to regulate the franchise among its citizens.[67] In March, the Central Committee of the Democratic party, the party controlling the Legislature, proposed a Democratic State Convention to nominate delegates to the Democratic National Convention and to nominate presidential electors. The Committee ruled that a qualification for all persons who wished to participate in the selection process was opposition to Negro and Chinese suffrage. And a resolution was adopted which accused the Radical majority in Congress of "an unnatural pursuit after Negro Equality" [sic] while neglecting the rightful discharge of its duties to the people of the country.[68]

In that same month, the Democratic legislator to whom the Executive Committe's petition had been sent for presentation to the Assembly returned the petition to the Committee. Accompanying it was an explanatory note in which the legislator stated his support of restricted Negro suffrage (based on intelligence and education) but he said that the time was not right to present the petition: the Legislature had much unfinished business and the men wanted to adjourn soon; on this basis, alone, the introduction of new business would raise opposition. So he advised that the petition be withdrawn. Either out of a sense of futility or of frustration the Executive Committee did not further pursue the

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[67] Union, January, 10, 1868, p.1.

[68] Monitor, March 14, 1868, p.5. The proceedings and resolutions of the meeting were printed with no editorial comment.

matter.

Coincident with this latter lost battle in the suffrage struggle was the loss of one of the most valorous troopers in the black Californian's rights struggle, the Rev. J.J. Moore. Moore, an A.M.E. Zion preacher, had been elected to the episcopacy and given a charge on the Atlantic coast; he was to be based in Washington D.C. His loss was deeply felt by his fellow blacks for he had been among the strongest advocates and laborers for their elevation. He had served actively as member and officer in the Colored Conventions and on Executive Committees; his church was regularly opened for protest and strategy meetings; he frequently lectured and published articles on issues of justice for blacks and other oppressed groups; he was an initiator of black public education in the State. Moore's departure brought to an end 16 years of civil rights struggle.[69] His friends in San Francisco held a testimonial meeting in his honor, and the Elevator published these commendatory sentences:

> "Mr. Moore is one of the pioneers to the new empire of the West, and has been foremost in every effort which has for its object the amelioration of our condition, morally, socially, politically, and religiously. He has been a constant worker in the pulpit, forum, and with his pen...."[70]

With the failure of the petition, organized effort on behalf of Negro suffrage in California came to an end. One reason may have been a submission to a seemingly immutable disposition against black enfranchisement in the prevailing State legislature and administrative branches. Another reason may have been indicated in the Rev. T.M.D. Ward's charge of a crippling disunity among black

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[69] See Chaps.V-VI for his work in education. Moore gave no reasons for his transfer; the Church apparently felt his talents were more urgently needed elsewhere.

[70] March 27, 1868, p.2. Though the Pacific ran a regular column on the activities of clergymen in San Francisco and the State, and though there occasionally was inserted a "Departures" column, this religious journal was completely silent on the departure of the Rev. Moore.

Californians. In published notes on his travels through the State he claimed that "discord blots and annuls every effort at united action. Every department of social, moral, and commercial life feels its blighting, deathly influence."[71] Ward was describing a dilemma which had been facing the right's movment since its inception in the early 1850's. Its largest major manifestation had been split over the question of whether to petition the 1867-68 Legislature for suffrage. The dissention was to continue in the coming decade with the same retarding effect on the elevation of California's black citizens.

But while there was no joint action for suffrage, individual black men carried on the fight. For instance, J.E.M. Gilliard, later to become an A.M.E. minister, toured the State lecturing on the subject of Universal Rights. Such lectures were not always safe endeavors: either because of the boldness of his presentation or simply the inimical atmosphere of the town (or both), Gilliard was physically attacked by some white men following his lecture at Chico. The black press, also, continued to carry articles advocating black rights, rebutting the slanders and false charges leveled against blacks.

In the Summer of 1868 a development on the National scene brought about a mood of mild hope and anticipation among California's blacks. The Congress made a forceful move to define U.S. citizenship and to include blacks in its privileges. The Fourteenth Amendment to the Constitution, passed July, 1868, declared all native-born and naturalized persons to be full citizens. In terms of the franchise, all persons so defined were to receive it; any State which denied the vote to lawful citizens

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71 Elevator, April 3, 1868, p.2.

would be penalized by having its Congressional representation decreased in proportion to the percentage of its citizens who were so denied.[72] Realizing the desire of every State to have its needs and interests represented as full as possible this law seemed to many black Californians to be a strong incentive for their admission to suffrage. But the Legislature was not in session so there was no way to know immediately its response. And there was the possibility that that body would prefer to risk loss of representation to giving blacks a political voice. Thus, there remained the desire that Congress would make a positive declaration in favor of universal suffrage, disallowing the option for its denial that the Fourteenth Amendment provided.

The election of the Union party's Grant/Colfax ticket in November of 1868 lead many black Californians to believe that Congressional action toward universal suffrage was not far off. They were not disappointed. By early February, 1869, the House had received and passed a bill by Rep. Boutwell of Massachusetts amending the Constituion to make it unlawful for any citizen to be denied the vote on the basis of race, color, or previous condition of slavery. President Grant endorsed the measure. He said that he had "bitterly opposed it [Negro suffrage] until it was forced on us by the logic of events." He said that Negro suffrage was now inevitable. He urged Senate passage of the Amendment, in the belief that "the extension of suffrage will not forbid the supremacy of intelligence."[73] Much to the joy of black Californians, the Senate passed the amendment by an overwhelming majority (40-16).

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[72] Cf. Bardolph, Civil Rights Record, pp. 49-50.
[73] Quoted in Elevator, February 5, 1869, p.3.

By March of 1869 four States had already ratified the proposed Fifteenth Amendment to the Constitution. Of the total of thirty-seven States twenty-four more ratifications were needed to achieve the three-fourths vote required to approve a Constitutional amendment.

The task facing black Californians now was to help persuade their State to be among the twenty-four. P.A. Bell had no doubt that the Amendment would finally be passed by the requisite number of States, with or without California's vote. So confident was he that he urged Statewide organization to prepare blacks to "act [vote?] unitedly when the great day comes." But if blacks wanted California to ratify, said Bell, they had to show that they were worthy of the vote and able to use it well. Whites must see the advantage to society of blacks having the vote. To accomplish these ends would require, in addition to State-wide organization, "the aid of the Pulpit, the Forum, and the Press - each powerful in itself...."[74] [sic] In terms of the forum, Bell suggested that a cadre of lecturers tour the State advocating the Negroes' cause. One good man for the job, he said, would be Frederick Douglass (a personal friend of Bell).

There was a very crucial need for this type of large-scale public relations, public appeal campaign. The people of the State were to have a direct, very influential voice in determining California's official decision on the Fifteenth Amendment. For the State elections were to be held in September of that year, and the people, therefore, had the opportunity to elect, or retain, either men pledged to vote for the Amendment or those pledged to vote

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[74] Ibid., April 16, 1869, p.2.

against it. There is no evidence, though, that the campaign called for by Bell was ever effected. Aside from Bell's ongoing editorial efforts for the suffrage cause, the only other significant activity seems to have been a lecture tour by Peter Anderson on the subject of the Amendment. And this did not begin until sometime after the election.

The opponents of Negro suffrage, however, did not sit quietly on the sidelines. California's U.S. Senator Casserly publicly opposed the Fifteenth Amendment on the grounds that it would lead, he thought, to amalgamtion of the races. Casserly, a Democrat and Irishman,[75] also joined with Democrats from other States in issuing a statement which said, in part, that "this [U.S.] Government was formed by white men and only in the interests of white men".[76] In California, itself, an all out Democratic effort was made to defeat the Amendment. One prong of their attack was a speaking tour by Assemblyman Johnson, who traveled the State lecturing on the supposed negative effects of the Amendment and allegedly misrepresenting the intentions of its framers and supporters. Defeat of the Fifteenth Amendment was incorporated into the

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[75]Because of the ongoing tensions in the country between the Irish and other minorities, Casserly's Irish derivation did not escape the comment of editor Bell. Bell said that Casserly had fled from oppression in Ireland and now was doing all in his power to make Irish serfs of black men. (Elevator July 30, 1869, p.2.) The Irish, he said, opposed emancipation and would still have blacks become slaves again. In the riots of July, 1863, they had perpetrated a second St. Bartholomew's Massacre on Negroes for no other reason than their color. And they mistreat the Chinese for seeking labor. (Elevator, June 2, 1869, p.2.) Casserly lent credence to Bell's last accustion when he publicly opposed Chinese presence in California because of their competition with whites for jobs. Cf. Elevator, June 2, 11, 1869 and July 30, 1869, p.2 in each case. On the New York riots of 1863 see Franklin, From Slavery to Freedom, p. 279.

[76]Quoted in Elevator, June 25, 1869, p.2.

platform of the Democratic Party as one of its chief planks. The party's position on the Amendment was clearly summed up in an address published in August of 1869 by the Democratic State Central Committee; it was entitled, "Shall Negroes and Chinamen Vote in California?" The address offered the Democrats' version of the evil that would attend the adoption of the Amendment. One would be the eradication of all color distinctions in government. Another would be that blacks would receive the vote and the people of the State would lose the power to prevent Chinamen from voting. Three-fourths of the people of California, said the address, oppose black voting and four-fifths oppose Chinese voting. Then in a blatant appeal to racial sentiments and to the "white man's government" concept, the address made this plea:

> "White men of California, vote understandingly. Do not remain away from the polls, but do your duty as free men. Give one day to your race and country, and by the united voice of your own race, save your ballot-box from the pollution of Negro and Chinese votes."[77]

While the Democrats were feverishly working against the Amendment, the Republicans were practically inert. Support of the Amendment was made a plank in the party platform, but there were no Republican lecturers on the subject, and the Republican papers in the State treated the matter with seeming indifference. Some appeared antagonistic to the Amendment, and one, the Spirit of the Times even denounced it.[78]

But by mid-August, amidst Democratic activity and Republi-

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[77] Single sheet reprinted by the California Historical Society from the San Francisco Examiner, August, 1869. The statements in this address tend to support the contention on pp.139-40. that the denial of Negro suffrage seemingly was due to its connection with Chinese suffrage, but that even apart from the Chinese issue, Negro suffrage was deemed undesirable.

[78] Cf. Elevator, July 30, 1869, p.2.

can inactivity, the Elevator confidently reported that California's yes vote was no longer needed for final adoption of the Amendment. Twenty-three States had already ratified, four others were about to, and four Southern States surely would, since Congress had made ratification prerequisite to their readmission to the Union. In a later issue, editor Bell offered the caveat that black Californians should not expect to be immediately propelled into high office, into universities, into wealth and power by the ratification of the Amendment. Instead they should expect only what the letter of the law stipulated.

The Democrats, meanwhile, successful in the election outcome, apparently were determined that the stipulations of the law remain unchanged, and failing at this, they would at least voice their defiance of the change.[79] On January 5, 1870 Governor Haight officially presented the proposed Fifteenth Amendment to the Legislature. In his accompanying message he said that the issue was not who should note or whether race should be a bar to voting. Rather, the issue was the proposed usurpation by Congress of the individual States' rights to determine these questions. Haight claimed that the power of the Federal government included only that which was delegated to it by the several States: it was not a superior power to that of the independent States. Congress could not, even with three-fourths State approval, deny to any State those rights and powers which it reserved to itself at the time

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[79]The following material on the Legislature is from Journal of the Senate and Journal of the Assembly Session, 1869-70. (Sacramento: D.W. Gelwick, State Printer, 1870), passim. Also, Hittell, History of California, pp. 429-30.

it entered the Union. To do so would be despotic. At any rate, said the Governor, not all States were represented in the Congress which passed the Amendment and it subsequently was railroaded through the Legislatures of States whose people were known to oppose it. The Amendment therefore could not be binding, even if adopted.

On the following day State Senator William Gwin introduced resolutions which expressed the sense of the Governor's message; they were later amended by Gwin to include rejection of the Amendment. Although these resolutions were tabled, a joint Senate Assembly resolution of Senator Hager to the same effect was passed in both houses by overwhelming majorities. The measure received the approval of the Governor on January 28.

But before two weeks had passed, this action was proven to be ineffectual in altering the progress of the Amendment. For by the second week in February twenty-eight ratifications had been received. On March 30, the Fifteenth Amendment was officially proclaimed a part of the United States Constitution. It read as follows:

> Article XV, Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
>
> Section 2. The Congress hall have power to enforce this article by appropriate legislation.

The response of black Californians to the passage of the Fifteenth Amendment was, of course, sheer elation. Even before the announcement of passage, meetings were held in many cities to plan celebrations to follow upon that event. Upon receiving the announcement from U.S. Secretary of State Fish, ceremonial festivities were held throughout the State, from Grass Valley to

San Francisco, Watsonville to Los Angeles. Most celebrations took place on April 5, with black businesses closed, guns and cannons firing continuously, speeches, grand balls and frivolity, and religious ceremonies of praise and thanksgiving to the God whom blacks believed to have been the ultimate cause of their enfranchisement. The Rev. Morgan, pastor of Bethel A.M.E., San Francisco, had cancelled regularly scheduled meetings in his church to make the building available to the celebration planning meetings because he "considered the cause a holy one, and as important as Christian worship." This is reminiscent of the Rev. Moore's statement in the 1865 Convention that the effort of that body for Negro suffrage was a "holy cause".[80] San Francisco's blacks celebrated with a one hundred gun salute and a spectacular parade; some fifteen hundred of them took part in the procession. And there were orations, speeches, songs, and general merriment. Said the editor of the Advocate, "a finer demonstration on a public occasion we have seldom seen."[81]

In a speech during the Sacramento celebration, Aaron L. Jackson said that: "God in his mercy, and at his own alloted time, has answered the prayers of our ancestors, whose blood and tears were drawn by the iron hand of oppression over the period of 200 years." Jackson said he could still hear his mother's voice saying, "Wait on my child, the salvation of the Lord will surely come." "I feel today," continued Jackson, "that it has come full and complete."

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[80] Proceedings, Fourth Convention, p.19.

[81] Advocate, April 14, 1870, p.6. The editor noted that as the Rev. Ward and accompanying ministers in the parade passed the Advocate book room, they raised their hats in salute, to which he and and those inside heartily reciprocated. See, also, Pacific, April 7, 1870, p.4.

He hoped that the oppressed of other lands would share in this salvation. Then he settled for his hearers any questions in their minds about the ultimate and proximate source of their enfranchisement, declaring tha the franchise was a "God-given right by creation" and in these latter days patriotic minds, "inspired by Deity", had incorporated this divine right into the law of the land.[82] In this same vein, a Mrs. Sarah Hillery wrote in a letter to the editor of the Elevator that it was then apparent as never before that the progress of blacks from emancipation to enfranchisement "is the Lord's doing".[83]

The Advocate attributed a significance of great magnitude to the country's action on the suffrage Amendment. In its first issue after the measure became law the editor wrote:

> "The three great political events which have up to to-day signalized our national history, are the promulgation of the Declaration of Independence, President Lincoln's Proclamation of Emancipation, and the ratification of the Fifteenth Amendment...."[84]

In the jubilation of the victory festivities it is likely that every black man in the State would have freely echoed the proclamation of the Rev. Hillary in his oration at the San Francisco celebration, that, "We mean to vote at the next stated election or die in the attempt." But there were some citizens of California who seemingly would not have been overly saddened had the latter alternative prevailed. California had refused to ratify the Fifteenth Amdnement and many in the State also scorned to accept the verdict of the majority of the States on that issue. The Democratic Assemblyman from Mud Hill vowed that he would fight or emi-

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[83] Ibid.
[84] April 7, 1870, p.1.

grate. There is no indication that he, or anyone else, did either of these. But resistence of a different type did materialize. Blacks wasted no time in entering the electoral process once the option was open to them. Hot upon the heels of the Secretary of State's announcement, and even before the celebrations, blacks appeared at county clerks' offices to register to vote. To their dismay they were turned away by the clerks in at least five cities: Stockton, Oroville, Sacramento, San Jose, and Fresno. The Sacramento Union editor believed this to be the result of an organized plot perpetrated by some Democratic legislators and public leaders. He cited a letter from two Democratic Senators and other officials sent to the Sacramento clerk congratulating him on his refusal of the Negroes. The letter said that the right to set qualifications for voters was, according to the Constitution, reserved to the States; California allowed the vote only to whites, so the Amendment should be disregarded. In another issue, the Union editor said that the State Attorney General had written to certain citizens of Stockton advising non-compliance with the Amendment, pending "appropriate legislation". (The State Legislature had adjourned without passing laws formally enacting the provisions of the Amendment and correlary regulatory procedures.)[85] The editor advised blacks to take the matter of their registration rejection to court; he urged the opponents of Negro suffrage to submit to the inevitable and thereby save black people the expense and trouble of litigation. He warned the county clerks that they were acting foolishly and would soon be brought to task by a bill pending in Congress imposing severe penalties for failure to enforce the Amendment.[86] However within

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[85] Union, April 8, 1870, p.2. Portions of the letter were printed.

a month after the passage of the Amendment, the resistance of clerks to the registration of blacks had subsided; these officials had evidently received what was for them sufficient authorization or sufficient motivation to comply with the new law.[87]

In subsequent months there was a noticable change in the approach of Democrats to the black voter. In May, an unidentified black man, writing to the Marysville Appeal stated that, as per his prediction, the Democrats were now seeking black votes. Col. Kewen, a Democrat, had danced with a young black woman at the Los Angeles franchise celebration, a degree of intimacy theretofore not shown [at least not publicly!]; a black man was unanimously supported by Democrats for the mayorship of Virginia City (Nevada). The whole tone of the Democratic press had changed, said the writer; it now referred to blacks as "our friends" and it no longer "spelled Negro with two g's". The writer said that while he despised this hypocrisy he found hope in it, for the Virginia city incident was being heralded by the Democratic press in cities far and wide as evidence that the Democratic party was now the black man's friend. The party would surely accord blacks some benefits and rights now, if only for its own sake.[88]

With the franchise now extended and the registry open, two tasks faced black leadership. The first was to see that blacks understood properly the implications of their new privilege and that they used it well. P.A. Bell seemingly had some prescience

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[87] The Governor and the U.S. Secretary of State wrote to the clerks at Oroville and San Jose, respectively, giving them the go-ahead. The sources do not make known why the Sacramento and Stockton clerks relented. Two years later, the Elevator (April 27, 1872, p.1.) reported that the clerk at Fresno was still refusing to register blacks. Maybe the few blacks there were afraid to contest the injustice or were unaware of the avenues of appeal.

[88] Elevator, May 27, 1870, p.4.

of a problem in this regard, for four months before the Fifteenth Amendment was passed he had warned his fellow blacks against inflated expectations in regards to the effects of that Amendment. But some blacks did not abide by this warning. Thus, in July of 1870, William H. Hall wrote in a letter to the Elevator's editor that, "Since the adoption of the Fifteenth Amendment, many of the colored people, under the teachings of ignorant and designing men, miscalculate their privileges among the whites." The Amendment, he said "....only makes black men equals at the ballot box; it does not invade any old customs between the two races...." At a public meeting in San Francisco, the blacks of the city rejected a call for a convention on the problem of educational rights; one of the primary bases offered for the rejection was the supposed rights which the Fifteenth Amendment conferred. Possibly their rationale was that, armed with the vote blacks could now fight at the polls. Or it may be that the acquisition of the significant democratic privilege of suffrage had given to some blacks an exaggerated sense of empowerment. Whatever the explanation, there were those, including Bell, who felt that the value of the Amendment was being over estimated.

One extension of the first argument against the convention was the contention that since blacks were now enfranchised they no longer needed racially separate movements and institutions; blacks must unite with the general citizenry in the established political parties. Two A.M.E. ministers, Fielding Smithea and J.R.V. Morgan, felt that under the circumstances the San Francisco Executive Committee ought be disbanded. Smithea would have only county committees to look after the educational needs of black

children and to see that black voters voted Republican. Bell, too, was opposed to separate institutions, but with some qualifications. In terms of public institutions, he felt that blacks should maintain their separate churches, schools, and press until blacks were no longer required to sit on the "negro pew" in white churches, on the rear seats in white schools, and until capable blacks were invited to the editorial chairs of white papers. And as long as discrimination persisted there would be need for separate social action organizations and for unity of thought and interest among blacks. As for social organizations, they would, by natural course, always remain separate for "like seeks like".[89]

The second task facing black leadership in consequence of the extension of suffrage was getting blacks registered, out to the polls, and voting in support of issues beneficial to themselves and the larger community. There is no indication in the sources at our disposal that any type of voter registration drive was ever mounted.[90] There may have been an assumption that the privilege of suffrage was, in itself, sufficient motivation for blacks to get themselves registered. The number of blacks eligible to vote and the percentage of those who registered cannot be ascertained from our sources, for no adequate statistics are available. The Appeal for September 10, 1870 said that of the approximately 2,400 blacks in San Francisco at that time about one-third, or 800, were males

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[89] Ibid., June 10, 1870, p.2; December 2, 1870, p.2.

[90] However, William H. Hall did suggest employing some men to go among the West Indian blacks in the city to encourage them to become naturalized and thus eligible to vote. Hall mentioned a feeling of jealousy which existed between this group and the native-born black. He urged a oneness of feeling because the Democrats had one fate in mind for both groups, and the West Indian vote would aid immensely to the struggle for elevation.

eligible to vote; not all of these were registered. The Elevator of September 21, 1871 reported that a county-by-county poll, conducted by the Elevator and the Lincoln Republican Club,[91] showed there to be about 3000 eligible voters in the State.

The first opportunity for California's black citizens to exercise their newly acquired suffrage right came in the local elections of September 1870. In San Francisco, the chief concern of black voters was the education issue. Peter Anderson advised that all candidates who came seeking black votes should be questioned as to what they intended to provide for blacks by way of school facilities. After the election, Bell said that blacks conducted themselves in an exemplary fashion in their first actual participation in electoral politics: they came early to the polls, [illegible]mly cast their ballots, and walked quietly home. Anderson commented that the black voters supported in force the Tax-payers' Party Candidates [the "correct" party to support in that election]. The Revs. Fielding Smithea and Barney Fletcher, along with William h. Hall, M. Howard, and others of the Excelsior Club were at the polls during the day campaigning for the Tax-payers' ticket.[92]

In the elections of September, 1871, blacks apparently cast their ballots for the somewhat liberal-minded gubernatorial candidate George C. Gorham, in his successful bid for office. This was the first State Election in which black Californians participated. Their first opportunity to exercise the franchise in national matters came the following year in the presidential election. By this

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[91] One of a number of black political clubs which were formed both before and after the franchise was granted. Their exact purpose and activities are not made clear in the sources.

[92] Appeal, September 3, 1870, p.2; September 10, 1870, p.2.

time there were some 900,00 eligible black voters nation-wide and the politicians were eagerly trying to make inroads into this vast reservoir of patronage. Presumably they reasoned that the interests and goals of blacks bore a uniformity which would permit of large bloc voting for whatever faction showed itself most congenial to black interests.[93] In terms of the presidential office itself, the Elevator, under the temporary editorship of a Captain Alexander Ferguson,[94] endorsed the Grant/Wilson team. In an apparent "back atcha" to an earlier Democratic public statement, Ferguson summoned blacks to "come out and give one day to your country and to principle."[95] After the election, Ferguson noted that blacks voted almost unanimously for Grant. He said that San Francisco's black voters acquitted themselves in a very orderly manner at the polls; of the many arrests made election day, none were of blacks.

In full awareness of their continuing less-than-equal status in society, California's black electorate sought to use the power of the ballot always in the manner best calculated to meet black needs. Allegiance to political parties had always to take second place to the cause of black elevation. This does not mean that distinctions between the parties were not recognized. For example, a black man in San Francisco complained in the columns of the

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[93]No part of the country ever experienced the "Negro domination" that many whites woefully predicted would follow black enfranchisement. But blacks quite often held the balance of power in elections. The erroneous idea that there existed a calamitous "Negro domination" in the Reconstruction era has until recently been almost universally accepted in historical writings on the period. For a good exposition of this myth, see the definitive study of Reconstruction by Dubois, Black Reconstruction in America, especially Chapter XVII.

[94]P.A. Bell, experienceing financial difficulties with the paper, gave it up to Ferguson in the late Summer of 1872. But in November of that year Ferguson was called from the State on other business and Bell resumed the proprietor-editor position.

[95]Elevator, November 2, 1872, p.2; cf. the statement of the Democratic State Central Committee, p.152 above.

San Francisco Post that though blacks had swelled Republican majorities at the polls, and Republicans had held out numerous inducements and promises (including promises of offices for blacks) to get their vote, none of their promises had been fulfilled. P.A. Bell replied that this charge was unquestionably true, yet blacks must work to reform the Republican party from within rather than abandon it in favor of the secessionist Democrats. But Bell could still say that every candidate should be evaluated on the basis of his stand on granting full rights to Negroes. If he was opposed or weak-kneed, blacks should vote against him, regardless of party: better to vote for a Democrat, an avowed enemy, than one who claimed to be a friend to the Negro yet neither aided him nor advised others to do so.

A concise statement of the blacks' position in this matter was offered on March 30, 1873. Celebrating that day the Anniversary of the ratification of the Fifteenth Amendment, the blacks of San Francisco issued a Declaration of Sentiments setting forth their loyalty to the Government and their determination to pursue full equality. Declaration number six stated that while blacks thanked the Republican party for the boon of suffrage, at the polls they would be "free agents," supporting whatever persons of whatever party who advocated equal rights to all.[96] Some white San Franciscans, misreading the political situation, soon brought on a demonstration of the blacks' firm resolve to be free agents. Alexander Ferguson wrote in a letter to the Elevator that in the June Primary election the black voters of the Fouth Ward[97] voted against a certain Tim McCarthy and he lost. The San Francisco Chronicle, said Ferguson,

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[96] Ibid., April 5, 1873, p.2.

[97] The area of heaviest black concentration in San Francisco.

accused blacks of being "fond of sugar plums" and the Post said "Billy Carr's coin and African ingratitude defeated Mr. McCarthy." Ferguson dismissed both charges, saying that the belief was common in the city that McCarthy had the black vote in his pocket and could "lead us to the polls as sheep are driven to the shambles." In light of this, he continued, blacks did not inquire if Mr. McCarthy, himself, believed this; they simply acted as became men and voted so as to dispel this galling and degrading falsehood. We did it, he concluded, "in defense of our pride of race, our dignity and our common manhood."[98]

An so after years of near total dependence on whites for the management of public matters, black Californians now enjoyed a voice in the affairs of their State and country. In the first years after receiving the franchise they proved that they could use it intelligently and well, giving the lie to the charge of Negrophobists that black voters would become the hapless pawns of demagogic, unscrupulous white politicians. Black Californians did not "win" the franchise, as such; their own State voted against their receiving it. Nevertheless, it was now theirs to use as they saw fit in combating the discrimination which still weighed upon them, as well as in advancing the interests of the country they claimed and loved.

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[98] Elevator, July 19, 1873, p.2.

Chapter V

EDUCATION - the LEVER of ELEVATION

Of the major barriers to social advancement which California blacks in the early 1850's had singled out for attack, only one remained to be toppled: denial of equal access to the publicly supported means of education. It is ironic that black men were excluded from a system which they helped to initiate. Captain William Leidsdorff, a wealthy black businessman, was a member of the three-man committee appointed by the San Francisco town council in 1847 to establish that town's first public school, which was also the first public school in the State.[1] But despite this early black contribution, black children proved to be unwelcome in the State-supported school system which shortly thereafter developed.

Article IX of California's 1849 Constitution provided for the establishment of a publicly-funded system of common schools.[2] The Legislatures of 1851 and 1852 passed enacting legislation for this article, providing for a school fund to be apportioned

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[1] Beasley, Negro Trailblazers, p. 172. Leidsdorff, a six year resident of California, was prominent in the affairs of San Francisco and the California territory. He was Vice Consul to Thomas O. Larkin at the time of the takeover of the teritory by the U.S.. Leidsdorff's record which provided important, detailed accounts of the historic Bear Flagg Revolt. Leidsdorff built the first wharf in San Francisco and today a street in the vicinity of that city's famous wharves bears his name. For further information on this notable black man see Sue Bailey Thurman, Pioneers of Negro Origin in California (San Francisco: Acme Publishing Co., 1952), pp.1-5.

[2] Constituion of the State of California (San Francisco: Office of the Alta California, 1849), pp.11-12.

according to the number of children ages 5-18 residing in the various cities, towns, and villages.[3] The actual opening of schools got off to a slow start: in early 1852, the State Superintendant, John G. Marvin, reported to the Legislature that most counties had few, if any, schools. In many places individuals started private schools out of despair over the prospects of the network of public schools ever materializing.[4]

To this point the laws dealing with education made no mention of race or integrated enrollment. Given the atmosphere of hostility among so many whites toward the presence of blacks and other minorities in the State,[5] it very likely was understood by the general populace that the schools were to be for whites only. But if there was any uncertainty on this matter it was clarified by the school law of 1855 which, in one section, required that the school fund apportionment census be taken among white children; another section stipulated that the allottment of funds was to be made "in proportion to the number of white children."[6] Consequently white citizens and school administrators would not have been encouraged to provide schools for blacks since it would have to have been done out of money's supposedly adequate for a given number of white students.

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[3]Journal of the Assembly, 1851 (N.P.: Eugene Casserly, State Printer, 1851), passim; Journal of the Senate, 1852 (San Francisco: G.K. Fitch & Co., State Printers, 1852), passim.

[4]John Swett, History of the Public School System in California, p.16f.

[5]See above, especially Chapter I.

[6]William W. Ferrier, Ninety Years of Education in California; 1846-1936 (Berkeley: Sather Gate Book Shop, 1837), p.98.

Government census figures for California's first years indicate only a small number of black children of school age.[7] Most of the residents of the State at his time were adult males who had temporarily left their homes and families in order to pursue a lucky strike in the California gold fields. But many who had brought families, and others who looked toward future settlement of their families in the State, were coveteous of the privilege of education for their children. Since black children seemingly were to excluded from the developing system of public schools, some blacks took the inittiative to open schools which blacks could attend.

On May 22, 1854 blacks in San Francisco organized the first public school for blacks in the State.[8] It was located in Bethel A.M.E. Church (at that time called St. Cyprian A.M.E.); the church had fitted up its basement for use as a school facility and leased it to the city school board at fifty dollars per month. The Rev. J.J. Moore of the A.M.E. Zion Church was hired as the first teacher of the colored school; he had previously taught in a private school for black children. The initial enrollment of

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[7] In 1850 there were 126. Ten years later the number was 586. Cf. Seventh Census of the United States 1850, Eighth Census of the United States, 1860.

[8] Both primary and secondary sources seemingly use the term "public school" to refer to two types of schools: there was the "regular" public school, financed, staffed and under the jurisdiction of the State school system; there was the "special" type, under the authority of blacks and for which black residents voluntarily contributed the financing so as to make it free to all parents who desired to send their children (thus distinguishing it from a private school). The San Francisco colored school was of the former type. But in other cities the colored schools often began as the special type and only later were taken over by the city as regular public schools. The term "colored school" was used by blacks and whites alike as somewhat of a general name for the schools intended for black people.

the school was 23 pupils. By September the number had grown to 44 and the Superintendent spoke commendably of the operation of the school in his report to the Common Council.[9]

Jonas Townsend, a black Californian who was active in the struggle for Court testimony [See Chapter 11] wrote an article for an Eastern black newspaper in 1859 in which he commented on the school situation of California blacks.[10] He said that the San Francisco colored school was ungraded, with students at all educational levels passing through the same curriculum. This was fine in the beginning, but with continued migration of blacks from the East the school's program became inadequate. For some of the emigrant children had enjoyed common school privileges in the East and were too advanced for the ungraded school. Townsend said that a few of the more advanced were admitted to the white grammar schools in their district. One such student, a young lady, excelled in the grammar school and upon passing an entrance exam was admitted to the high school, where she distinguished herself as one of the top students. But, said he, the pro-slavery sentiment of the San Francisco citizenry would not abide this racial mixing in the schools. The fires of public rage were fanned by the political press, which played up the story of the blacks in white schools. The School Board was

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[9] His comments, along with the foregoing materials on the black school is quoted from the diary of the Rev. J.B. Sanderson in Beasley, op. cit., p. 173.

[10] The Anglo-African, March 1859, cited in Aptheker, A Documentary History, pp. 416-18.

denounced as "abolitionist". Remonstrances were sent to the Board calling for the removal of the blacks from the schools. The pressure became so great that the Board yielded and passed a resolution which directed all black students "to attend the school provided for them in San Francisco."[11] But the resolution to direct the Superintendent to carry out the first resolution was tabled by a decided majority, thus leaving the situation unchanged. Appeal was then made to the State Superintendent, but he declined involvement, declaring that the elected Board had the responsibility of managing the San Francisco Schools and he could not interfere. At the same time blacks were further encouraged by the people of the Twelfth District of the city who petitioned the Board for the admission to the District grammar school of all children in the District, regardless of color.

Townsend rather abruptly ended his account at this point, and unfortunately did not date the events that he described. But a political pamphlet published in 1862 gives 1858 as the date of the Board resolution ejecting black from the white school.[12] The manner in which the Board resolved its dilemma is not made known by either of these two sources. But by the early 1860's blacks were no longer enrolled in San Francisco white schools.

On May 29, 1854, just one week after the opening of the San Francisco colored school, a black woman in Sacramento, a

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[11]Quoted by Townsend; presumably the language of the board resolution.

[12]"Have Negroes been taught and classed on terms of equality in a Public School under the charge of Mr. John Swett?" Pamphlet No. 43 in Hayes' Scrapbook (No publication data), found in the Bancroft Library, University of California, Berkeley.

Ms. Elizabeth Thorn Scott, opened that city's first school for Negroes, Indians, and Mongolians.[13] It began as a private school, run and probably financed by Ms. Scott and located in a private home.[14] By August of that year the black residents of the city had completed arrangements for the transfer of the school from a private to a public basis.[15] Monies were raised with which to hire Ms. Scott at fifty dollars per month to teach the school and it was removed from the residence to the basement of St. Andrews A.M.E. Church.

After teaching for some months in the colored school, Ms. Scott married a Sacramento black man, a certain Mr. Isaac Flood. Thereupon she resigned from her academic charge and the colored school was forced to discontinue for lack of a teacher. Then in April of 1855 the black citizens' school committee employed as teacher the Re. J.B. Sanderson, a member of that committee, and the school was reopened. It is not clear what there was to recommend Sanderson for the job, beyond his own substantial education; his trade in his Eastern home had been hairdressing. In his diary he gives some indications of the circumstances which drew him into the job:

> "There are thirty or more colored children in Sacramento of proper age to attend school and no school provided for them by the board of education. They must no longer

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[13] The information given here on the beginnings of the Sacramento colored school is taken mainly from Beasley, p. 174-75.

[14] The financing might actually have been through tuition fees from students. This matter is not made clear in the sources.

[15] The "special" type of public school. See note 8.

> be neglected, left to grow up in ignorance ...with the danger of contracting idle and vicious habits. A school they must have. I am induced to undertake this enterprise by the advice and the solicitation of parents. I can do but little, but with God's blessing I will do what I can."[16]

In a letter written to the Sacramento Board of Education, dated July 10, 1855, Sanderson told that in March of 1854 the grand jury had recommended the establishment of a fund for the support of a colored school. Sanderson said he informed the board of this recommendation and they responded by approving an appropriation for the said purpose, subject to the decision of the Common Council. The Council granted its approval, but then the mayor vetoed the appropriation. The grounds he gave for the veto were that the majority of the city's residents were Southerners who opposed educating blacks. The Council, however, passed the appropriation over the mayor's veto.[17] But the scarcity of public funds enabled only a temporary outlay for the colored school. When it expired, colored parents again picked up the tab for the school's operation. Sanderson closed his letter with a plea to the board, on behalf of the black residents, to again take the colored school under patronage and make it a regular, publicly financed school. The plea was effective. The board took over the school and Sanderson, upon his request, was examined and hired as teacher. In 1856 the board even erected a new school house for the colored school.

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[16] The location of the diary today is inknown. It is believed to be in the hands of one of Sanderson's surviving relatives. The materials from the diary given here are quoted in Beasley. p. 174.

[17] This section on the opposition of the mayor was taken from Jonas Townsend's article, refered to above, in Aptheker, p. 417.

According to the Grass Valley Directory, that city saw the initiation of a colored school in 1856. Under the Rev. Peter Green, the local A.M.E. church erected a "small but complete" school house on the church's property.[18] But not all the black children in the city attended the school built for them. Jonas Townsend, in the previously cited news article, related that three of the students enrolled in the white school were discovered to have black parents. Since, however, their physical appearance was strongly caucasoid the school supervisors decided to let them retain their enrollment. Some of the white parents protested and petitioned the supervisors to have the children removed. The supervisors refused to do so, so appeal was made to the State Superintendent, who demanded removal of the children on penalty of withholding of State school funds from the District. Townsend said that the Grass Valley supervisors did not relent and apparently the case of these three children thereby came to rest.

The initiative and activity of California's black residents toward securing school facilities for their children suggests the importance which many of them attached to education.[19] The issue of free access to the public school system did not elicit statewide black agitation at this time because blacks were engaged

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[18] Edwin F. Bean, Bean's History and Directory of Nevada County, California (Nevada: Daily Gazette Book and Job office, 1867, p.193).

[19] There was widespread interest in having education privileges, but some blacks were not sensitive to the importance of learning. They seemingly felt that hard work in the pursuit of a modicum of wealth was the surest path to the good life. Some others saw the role of education in the good life but in the struggle for school facilities succumbed to apathy. The number of blacks involved in, or supportive of, the school struggle waxed and waned over the years.

in another struggle which they deemed to be more crucial: they were seeking to make secure their property, their persons, and their civil freedom through the acquisition of the right to testify in their own behalf in the courts of law.[20] But even amidst the restless activities of the testimony struggle, the issue of education was not overlooked. The first Colored Citizens Convention in 1855 commissioned two of its delegates, the Revs. Moore and Ward, to write an "Address to the Parents of School-Aged Children." The address called to attention the increasing number of black children and the consequent increasing duty to seek educational priveleges for them. It stated that education "gives power to men . . ., opens a knowledge of the laws of life, [and] disposes . . . to the practice of justice and virtue." Ignorance was identified as the chief cause of blacks' suffering. Every opportunity to acquire knowledge must, therefore, be seized upon.[21] In line with these sentiments, the Convention adopted a resolution of the Business Committee calling for county organizations, one of the duties of which would be to encourage education.[22]

The following year, when the Second Convention assembled on the testimony question, a resolution concerning education was again adopted. This one declared that "... the common law, and the common school, are the only hope of a free and enlightened people; the former their shield and the latter their guide..."

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[20] See above, Chapter I.
[21] Proceedings, First Convention, pp. 24-25.
[22] Ibid, pp. 10, 15.

Apart from being desirable, the protection of the law and access to public schools were claimed as "... the inestimable rights of God to man".[23] The language of this resolution deserves a remark. Those prerogatives which the State claimed to extend, on behalf of the people as civil privileges, or at most rights of citizenship, are here claimed to be a priori rights grounded in the Divine will. The reasoning may well be the same as that used by J.J. Moore some years later in identifying the franchise as a God-bestowed right. Moore began by accepting as true the Declaration of Independence claim that the rights to life, liberty, and the pursuit of happiness proceeded from God. He then deduced that these general, abstract rights would be nullified if they were not concretized in certain specific freedoms, among which was the freedom to vote. Evidently the conventioners, believing with the First Convention that knowledge revealed the laws of life, while ignorance bred unhappy suffering - evidently they concluded that education was one of those rights upon which the Declaration's rights were contingent. If this was, in fact, the argument used it may have been influenced by J.J. Moore, who was numbered among the convention delegates.

Later in the convention a delegate offered a resolution aimed at intitiating at some future point a college and manual labor school. Opposition was raised on the grounds that, while there was fervent interest in education, the first goal should be the removal of the proscriptive school laws: college presupposed a public school education, which the laws denied to

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[23] Proceedings, Second Convention, p. 13.

blacks. Doubt was also raised as to whether blacks in the State had the financial resources to support such a venture. The matter was tabled.

The Colored Conventions were not the only occasions on which the issue of education was brought before the black community. An anonymous article written in 1857 advised blacks not to shove the education question out of sight. "Without knowledge", said the writer, "we shall always be fools....".[24]

The black Dr. Peter Cole, in a lecture delivered at St. Cyprian Church (Bethel A.M.E.), August, 1857, also argued for an educational thrust.[25] Religion first and then education, said Cole, are the things which best fit men to discharge their duties in life. To the objection raised by some blacks that they were too old for education he replied, "It is never too late to begin". He alluded to an attitude taken by others that education was unessential, or at most secondary, if one could attain wealth. To this belief that gold was better than wisdom Cole replied that advancement for the black man would depend on the same thing as it had for whites, namely, "... superiority in the progress of his knowledge."

While Peter Cole was urging the people of San Francisco to stay behind the education issue, the black residents of Stockton, assembled in a public session, resolved that they would "meet one night each week for our advancement in educational and

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[24] Printed among a number of other items in Peter Cole, "Cole's War with Ignorance and Deceit", p. 10.

[25] Ibid., pp. 14-51. Cole, who was apparently an herb doctor, was prominent in the affairs of San Francisco's black community in the 1850's.

social priveleges..."[26]

In a similar vein to Cole's remarks, a Thomas Duff, in a letter to the Mirror of the Times, called upon blacks to organize literary and debating societies so that those who were too old to begin their education in the normal way (i.e. in school) could still acquire knowledge. Duff stated that the necessity of schools was beyond saying, yet scarcely any towns in the State had a colored school. Then he offered what were to be the two most frequently recurring arguments in behalf of school priveleges for blacks. The first, directed to blacks, themselves, said that without schools for black youth, on whom the future depends, blacks could not hope permanently to improve their condition. The second argument, aimed at the educational and civil authorities, protested that blacks were paying the school tax but were excluded both from the schools and from their fair share of the school fund.[27]

But the establishment of educational facilities for blacks proceeded slowly. In 1857 a private school for black children was opened in Oakland by Ms. Elizabeth Thorn Scott Flood, who had initiated the Sacramento colored school. It was located at 7th and Market Streets, in the Carpenter school house, abandoned by whites when they erected a new building for the white school. A colored school opened in Marysville also in 1857, and in 1858

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[26] Mirror of the Times, November 30, 1857, p.3.
[27] Ibid., December 12, 1857, p.2.

black miners at Poverty Bar took steps toward their own education by establishing a lyceum. It was to be two years before another school facility for black children would open in the State.[28]

The year 1858 marks the time that a number of black Californians emigrated from the U.S. in search of greater civil and social privileges. One of those to leave was the Rev. J.J. Moore, the teacher up to that time of the San Francisco colored school. He was replaced by J.B. Sanderson who had come to San Franciscoco in 1857 and taken the pastorate of Bethel A.M.E. Church.[29] But a development of far greater consequence for black education in California was in the making. In January, State Superintendent A.J. Moulder presented to the Legislature the Eighth Annual School Report. In one section of the report, Moulder referred to the attempts of "Negrophilists" in several counties to introduce Negroes into the white schools, a practice which he said he was resisting with all his powers as Superintendent. He warned that persistence in the attempts to introduce Africans, Chinese, and Diggers into the schools "must result in the ruin of our schools." Moulder claimed that the mass of Californians would not "before the millenium" submit to this "practical amalgamation". They would rather forego school benefits than allow their teen-age daughters to associate with black males. The clear implication from this last fact,

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[28] Beasley, p. 177; Cf Ferrier, Ninety Years, p. 102; Marysville Appeal, July 28, 1874, p. 3; lyceum establishment cited in Newspaper index, under "Negroes", in California State Library, Sacramento.

[29] Phillip Montesano "Some Aspects of the Free Negro Question in San Francisco, 1849-1870." Masters Thesis, University of San Francisco, 1967, p. 63.

said Moulder, was that the schools must be maintained solely for whites, or they would soon be pupiled by blacks only. He stated his intention to seek legislation on the subject. And so as to contravene any negative misinterpretations of his motives, the Superintendent made the following declaration:

> "The State Superintendent disclaims any prejudice against a respectable Negro -- in his place; but that place is not, in his opinion, in association, on terms of equality, with the white race."

Recognizing the desirability of Negroes, Chinese, and Indians avoiding "ignorance and heathenism", Mr. Moulder consented that any district may establish a separate school for these "inferior races" and apply a portion of the school funds toward it, provided the white citizens of the district did not object.[30]

The legislation which Moulder said he would seek was not long in coming. The school law passed in 1860 prohibited Negroes and Mongolians from being admitted into white schools on penalty of the offending schools forfeiting their share of the school fund. The law allowed, but did not require, school trustees to establish separate schools for minorities. The new legislation marked the official, legal recognition of the white-oritented nature of California's public school system. This did not represent a change in existing policy, only the addition of sanctions against those boards of education that defied the policy in favor of a more liberal treatment of blacks and other minorities. Embodied in the law was an acknowledgement that blacks had a place in publicly supported schools, and there was some leeway given for educators to supply such schools for blacks.

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[30]Quoted in Ferrier, p. 98; Roy W. Cloud, Education in California (Stanford: Stanford University Press, 1952), p. 44.

But there was no implication that blacks had a right to public education, their regular payment of the school tax notwithstanding. Seemingly they were to be educated to deter their potential "heathenism", or, in other words, as a self-interested safeguard for white society.

Apparently white Californians felt no threat of barbarism from the more than four thousand blacks[31] who now dwelt among them nor much sympathy for their continued pleas for school privileges. For the openings of schools for blacks were few and far between, with the initiative more often than not coming from blacks, themselves. When possible they secured monies from the cities to help finance the projects.[32] In 1860 a colored school was established in Red Bluff, with public moneys alloted for its support. Its teacher was Ms. Sarah Brown, daughter of the noted John Brown.[33] The following year a colored school was opened in the A.M.E. church in Stockton.[34] And in San Jose, the Rev. Peter Williams Cassey the black rector of St. Phillip's Mission (Episcopal) in that city, opened a school for black children. It was originally an agency to provide an opportunity for education for his relatives, who were denied admittance to the public

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[31]The exact figure for the black population at this time was 4086. Cf. Eighth Census of the United States. 1860

[32]City school boards sometimes contributed twenty-five or more dollars per month toward a teacher's salary, black citizens picking up the remaining costs.

[33]Cf. Ferrier, p. 101. California blacks, as did blacks across the country, thought highly of John Brown and his efforts on behalf of the Negro. A well-known black San Franciscan, Mary Ellen "Mammy" Pleasants, gave $30,000 to Brown for the purchase of weaponry. When Brown's widow located in California, blacks there contributed freely to a fund to purchase a home for her.

[34]George H. Tinkham, The History of San Joaquin County (Los Angeles: Historic Records Company, 1923), p. 235.

schools. But soon other blacks desiring the same opportunity persuaded Cassey to broaden the enrollment. Under this new circumstance Cassey's operation became a private boarding school. A white friend, Professor Higgins, music teacher at the public school, helped to launch the effort by staging a benefit concert for the school, raising some two hundred dollars. The city of San Jose also pledged monthly financial support. On December 11, 1862, a group of blacks in San Jose organized the Phoenixonian Institute, dedicated to the social, political, and religious uplift of black people. One of their first acts was to assume the sponsorship of Cassey's school, hiring him to teach both day and night classes. The San Jose school began well and progressed; students came not only from the San Jose area but from Gilroy, Stockton, Sacramento, Mariposa, and even as far away as Portland, Oregon.[35]

In Sacramento, the school for blacks continued to provide as best it could for the education of the black youth there. Black citizens still financed a portion of the costs, the teacher's salary, while the city picked up the rest. In addition, blacks there organized in May of 1862 the Sacramento Literary Institute,

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[35]This material on Cassey's San Jose school is drawn from Lionel U. Ridout, "The Church, the Chinese, and the Negro in California, 1849-1893", in the Historical Magazine of the Protestant Episcopal Church. Vol XXVIII, No. 2, June 1959, pp. 132-33; Beasley, Negro Trailblazers, p. 175; the Elevator, July 21, 1865, p.3. Cassey was the grandson of the Rev. Peter Williams Jr., Rector of St. Phillip's Church in New York and the first black man to be ordained to the Episcopal priesthood. Cassey's great-grandfather, Peter Williams Sr., was among the group of black men to break from New York's John Street Methodist Church to form the A.M.E. Zion Church. Cf. Carter G. Woodson, The History of the Negro Church, pp.78, 94-95.

whose members heard lectures, sponsored debates, wrote compositions, and engaged in other like intellectual activities.[36] This form of continuing education, of sorts, was to become increasingly common among black adults who desired learning but felt themselves to be beyond the classroom age.

San Francisco at this time was experiencing a series of education-oriented activities. Late in 1860, a white Methodist minister, the Rev. James W. Brier, conceived the idea of an educational academy for West Coast blacks. He gathered other interested persons into an organization which they named the Livingstone Institute; its Board of Trustees was legally constituted in January, 1861. The Board was to have a permanent make-up of sixteen blacks and eight whites. The Revs. J.J. Moore, J.B. Sanderson, and J.H. Hubbard numbered among the original sixteen blacks, with Moore holding the office of Secretary.

The first object of the Institute was to raise a $10,000 building fund through contributions and the sale of stocks. Secondly, a $20,000 endowment was to be secured. Brier, with the help of Moore, raised $1,650 toward the building fund after several months, with promises of more to come. But then interest in the project seemed to wane. Brier had to abandon the task to seek gainful employment to support his family. With no other authorized agent in the field the project came to a halt and no other monies were taken in. The Treasurer, State legislator Nathaniel Gray, was instructed to purchase a

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[36] Pacific Appeal August 16, 1862, p.3.

certain lot in the city as the future site of the school buildings. Later in 1861 Brier did open a small school in the house on the lot but it failed financially. The house was rented out and the plans for an academy were tabled for the time being.[37]

Journalistic encouragement of black education was initiated by the Rev. Moore when, in January of 1862, he began publication of the Lunar Visitor. This monthly magazine was, according to its heading, devoted to "...Education, Morality, and Social Improvement". An article in the second issue (February) lists education as one of the essential elements in the elevation of blacks as a race. T.M.D. Ward and J.B. Sanderson were regular contributing writers for the Lunar Visitor.[38]

Sanderson, while still a teacher at the San Francisco colored school, organized in 1862 the Young Men's Union Beneficial Society. This organization, like the Sacramento Literary Institute, was a black organization dedicated to the self- education of its members. Sanderson served as first president.[39]

The location of the school which Sanderson taught, old Bethel Church basement,[40] had seemed at the time of its opening as sufficient for the purpose, at least as a temporary site. By 1862, however, the now poor condition of this facility had become a matter of concern for San Francisco's black community. In September the Appeal reported that a meeting was called to

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[37] Ibid., January 30, 1864, p. 2; February 6, 1864, p.3; Elevator, December 20, 1867, p. 2.

[38] Their names appear as such in the first page heading.

[39] Appeal, April 5, 1862; Lapp, "Jeremiah B. Sanderson", p. 329.

[40] Bethel's congregation had by this time moved to a new location.

discuss this problem.[41] The meeting, under the chairmanship of Sanderson, authorized a letter of complaint that was to be sent to the school board. The letter said that the school was poorly ventilated, in much disrepair, lacked adequate playground facilities, and was too small for the three hundred black children who were potential enrollees. (Actual enrollment was fifty). The letter requested a better, more spacious building, additional teachers, and another school of higher grade. The intial response of the Board was somewhat positive: the Superintendent was instructed to find a new site and the Committee on School Houses looked into buying and repairing the present structure. But six months later no action had been taken. Peter Anderson urged that a committee be sent to the Board to resubmit the requests for improved, expanded school facilities.[42]

There is no indication as to whether or not Anderson's suggestion was taken, but by some means the colored school situation came again to the Board's attention and in mid-June a recommendation was adopted to erect a new building for the school. As before, though, action did not follow close upon resolve. In August the blacks of the city met, again under

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[41] Vital to any social movement is a regular communication link by which information on the current state and proposed activities of the movement can be disseminated. This link was provided by the San Francisco Pacific Appeal, the black weekly paper which began publication April 5, 1862. This paper, and the later San Francisco Elevator, became the chief sources of information for blacks then, and for scholars now, on the education struggle.

[42] Appeal, April 18, 1863, p. 2. In this six month interim, the Appeal for October 11, 1862, announced that another private school for black children was opened. Included in the article announcing this school was an intersting observation that black children were denied admittance to the Catholic schools, though no official church policy on the matter had been adopted.

the chairmanship of J.B. Sanderson, to discuss their school dilemma. A committee was formed to work with the committee of the Board in finding a location for the proposed new school. By October a site had been found; six thousand dollars was to be expended for a lot on the corner of Broadway and Powell Streets.[43] Sanderson and the other ministers and laymen active in this agitation had seemingly scored a minor victory.

From the beginning of the movement to secure educational opportunities for blacks, black clergy were active paticipants. Often they were the initiators and/or teachers of the institutes and schools established for blacks. Around the closing months of 1863 a series of items appeared in print which offer notable insights into the rationale of this extensive clerical involvement.

The first of these was the minutes of the annual California A.M.E. Convention held in September of 1863.[44] The Convention was attended by the nineteen ministers of the California district.[45] The report of the Committee on Ministry spurred a lengthy discussion on the subject of education. The report stated that inasmuch as the printed word and the school systems were diffusing more and more education among the general populace and Christianity was keeping pace with the progressive

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[43] San Francisco Bulletin, October 7, 1863, p.5.

[44] Journal of Proceedings of the Third Annual Convention of the Ministers and Lay Delegates of the African Methodist Episcopal Church (San Francisco: B.F. Sterett, Printer, 1863).

[45] The California Convention included California, Oregon, British Columbia, and the Territories of Idaho and Nevada.

movement of the other sciences, then the minister must be a "...reading man, and in truth the student of nature and nature's God",[46] acquainting himself "with all the attributes of the Divine Majesty...." As a means to this, it was recommended that all clergymen follow the Church's official study course, read appropriate works, and use any other means productive of the "Godly and intellectual man". Ministers were also urged to write out their thoughts and to preach "carefully prepared, written discourses to their congregations at least once a month."[47]

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[46]Note the use of language reminiscent of the Enlightenment. Many of California's black leaders, including men of the clergy, were educated, broad-minded men who had imbibed and integrated into their thought patterns the ideas and ideologies that were current in their era. In their speeches and writings they quoted classical figures, as well as the Bible. In this sense they shared much in common with white leaders of the day. In this sense they shared much in common with white leaders of the day. They differed from whites in their emphasis on those Biblical and secular sources which were supportive of the cause of the oppressed. Frequent reference was made to man's natural rights, to Divine justice, and to God's acts of deliverance. Cf. Ezra Johnson, Emancipation Oration (San Francisco: Elevator Office, 1867), passim; Proceedings of the 1865; 56, and 65 Colored Conventions, which contain many representaive speeches and statements. In this matter, black Californians were not unlike Eastern black leaders who also argued from a diversity of source authorities while championing the cause of the down trodden. Of course, the mass of blacks throughout the country had no educational opportunities and no exposure to classical and contemporary trends of thought. Consequently, their protestations of their condition conceptions. Cf. Aptheker, A Documentary History, passim. Vincent Harding, "Religion and Resistence Among Ante-Bellum Negroes", in August Meier and Elliot Rudwick, The Making of Black America. Two Volumes (New York: Atheneum Press, 1969), Vol. I, pp. 179-200.

[47]Journal of Proceedings, p.8, 9. The materials on the debate begin here and run through page 13. The last item of the report, on preaching from manuscripts, points to the common practice among black ministers of the time of preaching with only minimal forethought, leaving it to "the Spirit" to provide, at sermon time, the w ds to say. Cf. William Pipes, Say Amen, Brother (New York: The William-Frederick Press, 1951) p.72; Louis Hughes, Thirty Years a Slave (New York: Negro Universities Press, 1969), p. 54.

When discussion on the report was opened, the Rev. John T. Jennifer said that he was born in a slave state and had to satisfy his thirst for knowledge by stealth. He approved the report, saying he much appreciated hearing the Gospel preached and interpreted "...by men Godly, and at the same time of much learning. And among Negroes the pulpit has great power to elevate or lower the standard of intelligence", just as it is a "...medium of instruction in knowledge of divine things."

The Rev. Peter Green spoke similarly. The Rev. Ward stated that in California he had been very discouraged by an opposition in the churches of his efforts to elevate learning in pulpit and pew. Many, he said, did not confront him directly but went from house to house stirring up jealousies and infusing a prejudice against intellectual culture "...sneering at the wisdom of these says". [sic] "They encourage intellectual laziness and idleness." He contrasted this situation with what he had witnessed in the East. Ward gave as the objection of some churchmen that learning squelches religion [a contention some Christians of today still offer]. In countering this argument, he cited John and Charles Wesley, whom he said were men of piety who placed a premium on an educated clergy.[48]

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[48] These two white men were founders of the Methodist Church, from which Ward's denomination, African Methodism, had split for racial reasons. It may seem strange that Ward would use them as authorities in debating with A.M.E. churchmen. But actually African Methodists related cordially to what some of them called the Mother Church (White Methodism) and its leaders In California there were occasional situations of cooperation between black and white Methodists.

The Rev. P. Kellingworth, who said he had come up out of "Egypt" [Southern slavery], related that when he became a Christian he sought knowledge in the Bible. In his ministry, he continued, he had encouraged parents to take advantage of every educational advantage afforded their children. But, said he, at his advanced age the Bible would still be his chief area of study.

James H. Hubbard, the pastor at Marysville, spoke approvingly of education. From an unidentified source he quoted the words that men must "...look through nature up to nature's God". Hubbard made reference to ministers who sometimes boldly said "'I have made no preparation'". These boastings, said Hubbard, were surely not to the credit of their speakers; they showed a fearfulness of criticism. "The truth is, the man feels that it is a misfortune not to have enjoyed the advantages of a thorough mental culture."

According to J.T. Jennifer, blacks did not read sufficiently and were somewhat readily excitable, so that any speaker who made simply a spirited, passsionate appeal could arouse them. But at this point, Barney Fletcher spoke up in behalf of some balance in this matter. He argued the need for both spirit and intellect in the pulpit, the latter being dull and lifeless without the former. Edward Tappan agreed, saying that he wanted also to feel the "fire and power of the Gospel through the preached word." Excitement in religion, as upon other subjects, is good. Elder Mitchell spoke in a similar fashion, warning against overly emphasizing "worldly wisdom - the wisdom of books." The first need, said he, was for "vital religion", for "...without Jesus we can do nothing."

After some further comment by clergy and lay delegates, the report was adopted by unanimous vote. Later in the Convention the Committee on the Episcopacy presented its report in which the desire was expressed for a bishop for the Pacific States who would be friendly toward educational advancement, since "... learning is regarded as the handmaid of religion."[49] And then, in the text of an address by T.M.D. Ward appended to the Convention minutes, education is listed as one of three forces, along with religion and wealth, by which the newly freed black man would rise to eminence and power.[50]

The clergy of the California A.M.E. Conference, which represented some two-thirds of the black clergy on the West Coast at that time, took a firm stand in favor of an educated clergy and membership.[51] A significant aspect of this stance was the expressed belief that secular education led to a knowledge of God: through study of the world one could discover the divine essence, which is manifested in created existence. Further, a trained, cultured mind, as well as spiritual receptivity, was necessary for one to properly recognize the will of God and the duties of man in this life. Such a position not only justified clergy involvement in the pursuit of educational opportunities for blacks, it in effect made that involvement a part of the pastoral charge.

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[49] Journal of Proceedings, p. 32.

[50] Ibid., p. 41. The address was a reflection on the success of the Northern cause in the Civil War, then in progress, and on the new status of freedom which it had brought to blacks.

[51] Besides the A.M.E. clergy there were two or possibly three A.M.E. Zion ministers, about five Baptist clergy, and one Episcopalian.

The next items to appear in print relating to religion and education were two letters printed in the Appeal. The first, printed September 19, 1863, announced that the city of San Jose had established a colored school. The author, the black Rev. W.A. Smith, said that P.W. Cassey had succeeded over all competitors in gaining the appointment as teacher. The next month Cassey, himself, wrote to the Appeal concerning the San Jose school situation. He expressed an irritated disappointment that blacks there were lax in their concern about education. And yet, he said,

> "The pulpit, the press and the schools are necessary to our elevation....A theoretical Christianity, which satisfies itself by erecting buildings of wood and stone, can do but little."

As the Apostle Paul tells us, said Cassey, we are the temples of God.

> "And it is this temple, fashioned by the Almighty Architect, that Christianity must cleanse, by education, from the corruption of ignorance and vice, and consecrate by wisdom....The press, schools, benevolent societies, and, in a word, all that tends to elevate or improve, are but fruits of the Spirit."[52]

Here is a clear statement of how California's black clergy and laymen viewed the relation between religion and social action for educational rights. Secular activity for the uplift of the lives of men, in this case black men, was ultimately sacred work, "fruits of the spirit", for it prepared and enabled a man to live the Christian life: it prepared by removing the impediments - ignorance and its attendant vice; it enabled by en-

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[52] Appeal, October 10, 1863, p. 3. Social uplift as the enabler of the Christian life was the basis of the controversial appeal of the Rev. Henry Highland Garnett to black slaves in America to revolt. Cf. Aptheker, pp. 226-33. (Garnett was a black Presbyterian minister in the East.)

lightening the path of wisdom and virtue. Hence the statement in the Appeal from a San Jose writer identified as B.H. that,

> "The very foundation of our future is Christianity. The pulpit, the press and schools are the great levers for elevation....In the press, the Church employs an agent more extended than the pulpit, and schools under her guidance are but the portals of the sanctuary".[53]

In a similar vein, a writer from Sacramento said that the only force separating men from brutes, Christians from savages, was education.[54]

A second perspective on the involvement of black clergy in education was provided by John T. Jennifer. Writing to the Appeal in November of 1863 Jennifer recounted that on assuming his new church appointment in Placerville he first organized the people, then he looked to the youth, who were growing up without an education. So he organized a school with the help of some of the citizenry. The school, he continued, showed good prospects and some of the students were eager to learn. After acknowledging his limitations as a teacher, Jennifer offered his motivation for attempting such a task: "My love for the advancement of my people compels me to take this responsible step, 'til God in his Providence shall send his a more competent one to fill the place." Jennifer was saying here that apart from being a pastor and seeking to facilitate the participation of his members in the Christian life through education - apart from this he was a black man deeply concerned about the struggle of his people toward dignity. And because of his pride in, and

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[53] November 14, 1863, p. 3.

[54] From a writer signing A.E.V., in Appeal, January 2, 1864, p. 3.

identification with, his black people he could do no other than confront the needs of their social condition.

In this regard Mr. Jennifer had placed education high on his priority listing, seemingly because he accepted the belief common among many blacks that their social advancement as a race was not possible without education. It was through superior knowledge, said they, that whites had excelled; Jews, a once oppressed group, had used education as a steppingstone to influence and achievement. Blacks must follow these examples. Black leaders had warned that respect would never be accorded to the race by their American oppressors or by the larger world community until black men became men of learning and intellectual accomplishment.[55]

Thus, under the dual motivations of advancement of the faith and advancement of the race, California's black clergy actively engaged in the effort to bring opportunities for education to black children. They shared with other leaders in a difficult labor, the fruits of which were not very encouraging: by the end of 1863 there were only five public colored schools in the State, with 167 students enrolled out of a total of 735 black children of school age.[56] Supplementing these five public schools were the private schools which were occasionaly initiated by blacks in various cities. For example, a private

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[55] Subsequently history has shown this to be only a half truth, at most. While education may possibly have been a precondition for black acceptance and respect by whites, neither education, nor any other things, in whatever combinations, has led inevitably to that acceptance and respect.

[56] John Swett, First Biennial Report of the Superintendent (n.p.: O.M. Clayes, State Printer, 1865), pp. 17, 19.

colored school was opened in San Francisco in 1863 and one in Petaluma in 1864.[57] But blacks wanted public schools: their own meagre finances could never supply the caliber of school which was possible through the State's School Fund. And, at any rate, part of their financial dilemma was due to taxes, such as the school tax, exacted for benefits they could not enjoy.

The blacks of San Francisco at this time were fortunate to have a school Superintendent, in the person of Mr. George Tait, who was sympathetic to the case they presented. Tait condemned the poor physical conditions of the colored school and recommended that a new structure be erected, in a location convenient of access to the city's black population. At his urging, the plans to purchase the Broadway lot as a school site were realized and in early 1864 construction began. Later that year when the school opened, blacks, themselves, with the permission of the Board, staged the dedicatory exercises. The existence of a new school caused enrollment to climb to 138 pupils. A second teacher was hired to work under Sanderson, who was promoted to principal of the school. Superintendent Tait noted that San Francisco blacks were substantial taxpayers and deserved teachers well prepared to meet the requirements of their school.[58]

But another development was afoot which would effect not just blacks in San Francisco but those throughout the State. In 1863, the State Legislature had passed an Act dealing with the maintenance and supervision of the public schools. Section 68

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[57] Appeal, April 25, 2863 p.2; James A Fisher, "A Social History of Negroes in California", p. 145.

[58] Ferrier, Ninety Years, p.100.

of that Act said school districts which admitted Negroes, Mongolians, and Indians to the public schools would forfeit all State school funds. School boards could, however, establish seperate colored schools out of their alloted school monies, if the boards chose to do so. In 1864, in the Legislature's deliberations on a bill to further revise the school law, Assemblyman Chappel moved an amendment to Section 68 of the 1863 Act so as to allow that when the parents of ten or more Negro, Mongolian, or Inidan children in a given school district applied for school priveleges that a separate school would be established and maintained from the general fund. This motion was amended by Assemblyman J.J. Owen to permit school boards at their discretion to provide school facilities for less than ten such children.[59] In this amended form Mr. Chappels motion passed and was added to the bill under consideration. On February 16 the Assembly passed the bill, sending it to the Senate. That body passed the bill, as received; in March, Gov. Leland Stanford then signed it into law.[60]

The reaction of the State's black populace to this development was probably mixed. Peter Anderson's hopeful statement

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[59] J.J. Owen was the editor of the San Jose Mercury. He was well-liked by California blacks because he took strong stands editorially and in the Legislature in favor of black rights. Owen deplored the racially based school laws and in the Mercury called the separation of races in schools a "vestige of barbarism." Cf. Benjamin Bronston Beales, "The Mercury and the Civil War," California Historical Society Quarterly, Vol. XXII, 1943, p. 226.

[60] This material on the 1863 and the 1864 school bills was taken from the Journal of the Assembly, 1863-64; Statutes of California, 1863-64.

surely represented the feelings of many when he said prior to the passage of the bill that if it should become law it would be an advancement in the blacks' condition which would in turn make them more law abiding, confident in their rulers, and patriotic.[61] But there were just as surely those who saw this move as a disheartening compromise with bigotry. For while it opened the legal door for public financing of schools for blacks it left some major issues untouched: it locked into law the segregated school without even the stipulation of separate but equal; only separate was required. The wretched condition some of the existing schools had been allowed to fall into bore testimony to the pitfalls of separation as the only provision made for black education. Also, many black children would suffer exclusion from schooling simply because of there being less than the minimum number of black children in their district to require the establishment of a school; white school boards could not be counted on to use their discretionary powers to provide for a lesser number.

As before, blacks concerned about education did what they could within the framework of the existing laws. Black leaders continued to urge upon parents the importance of educating their children. In fact, some prominent blacks seemed to rank obtaining educational opportunities for blacks on a par with securing the franchise, in terms of their relative importance for the progress of the race.[62] Progress, in this connection, was not

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[61] Appeal, February 20, 1864, p.2.

[62] Cf. Elevator, June 9, 1865, p.2; August 8, 1865, p.2; Proceedings, Fourth Convention, p.7.

seen in strictly secular, social terms. On preceding pages attention was given to the black clergy's position on the relation between education and the virtuous life. Black laymen assembled in the Fourth Colored Convention, in 1865, took a similar position. They declared that the faculty to acquire higher education was the point of distinction between man and lower animals. Man's chief end, said they, was to develop his reasoning faculties, which they termed "...emanations of the God-like power from which man has his being." This could only be done by complete access to the institutions of learning.[63] And so, for social and spiritual progress the pursuit of education was urged.

These urgings were attended by some action. The blacks of Santa Rosa secured a public school for their children. It was taught by the Rev. Amos Johnson, pastor of the black Baptist church in Stockton. He also taught a night school for adults in Stockton. According to a white resident of that city, H. Richardson, Johnson was "...doing all he [could] to raise the standard of education among the people."[64]

A public school for blacks was also opened in Shasta. And a group of black children in Los Angeles were making a valiant attempt to secure an education in somewhat adverse circumstances. According to State Superintendant John Swett, this small band of fifteen students was working under difficulties, "...as their little room of ten by fifteen feet has neither desks, blackboard,

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[63] Proceedings, Fourth Convention, p. 8.
[64] Elevator, July 7, 1865, p. 3; August 4, 1865, p. 2.

maps, charts, nor any kind of furniture, except a line of rough board seats without backs, around the walls."[65]

In San Francisco, an openly racially-motivated action of the Board resulted in some benefit for blacks. In June of 1865 J.B. Sanderson was removed as head of the colored school. The school seemingly had been seeking a black female as assistant teacher to Sanderson, to instruct the girls' class. A black woman could not be found and the Board refused to place a white woman under a black male principle. So Sanderson was released and a new principle was hired. But this worked to some good, for Sanderson was appointed by the Board to organize and head a colored school in the southern part of the city. By late July his new enterprise was in motion with about forty students. Black San Franciscans now had two well-attended day schools instead of one.[66]

Also in San Francisco, black evening schools, one for men and one for women, were opened by October in the main colored day school building. And the Revs. Ward and Moore and Mr. W.H. Hall presented to a public meeting of blacks some plans for a literary institute for youth.[67]

The Rev. P.W. Cassey's San Jose school continued to do well and received the commendation of school officials. By this time the members of the Phoenixonian Institute had begun to think seriously about their initial goal of advancing the status of the school to that of a high school or an academy, one which would service blacks throughout the State. The goal had the support of in-

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[65] Quoted in Cloud, Education in California, p.45

[66] Elevator, 1865: June 23, p.2; June 30, p.3; July 28, p.2.

[67] Ibid., October 6, 1865, p.2; November 17, 1865, p.3. The sources do not indicate whether or not the institute ever came into operation.

fluential black leaders like the Elevator's P.A. Bell and J.J. Moore, both of whom felt that the project could be boosted by a merger of the Phoenixonian Institute with the stagnant Livingstone Institute. The latter, when presented with the idea by Bell, found it agreeable and pledged to pursue the union. When the Colored Convention met in October, a resolution was adopted to solicit one dollar from every black resident in the State toward an endowment for the future San Jose high school or college. This would amount to some four thousand dollars, the amount needed to purchase the land and buildings then occupied by Cassey's school as the site for the proposed school. A resolution was also adopted that the Livingstone Institute be encouraged to contribute its financial holdings to the San Jose project.[68]

For almost two years following the Convention, the movement for black education entered a state of relative quiescence. Notable events were limited to these three in 1866: the opening of a colored public school in Oakland; the petition of blacks in the adjacent State of Nevada for action from the Legislature toward allocating public monies for black schools; the revision of the California State school laws. The school law revision softened somewhat the hard line on segregated schools.

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[68] Ibid., August 11, 1865, p. 2; September 1, 1865, p.2; Proceedings, Fourth Convention, p. 8. The one dollar per person formula of the Convention's resolution was seemingly based on the 1860 census figure of 4080 blacks in California. P.A. Bell gives a figure of nine thousand blacks in the whole West Coastal region, six thousand of whom he says can read. Cf. Elevator, January 26, 1866, p. 2.

It empowered school boards to admit non-whites into the white schools if their education could be provided for in no other way and if a majority of parents of white pupils registered no written objections with the boards. These new provisions were a step toward liberality but they found no takers among the various boards.[69]

Then in July of 1867, things began to happen again. In this month the members of the Phoenixonian Institute hosted a State Convention on education, industrial pursuits, and the franchise. On education, the Convention urged parents to take advantage of what legal provisions there were for the education of their children. Also, a resolution was adopted to form a joint stock company to sell shares at twenty dollars apiece for the purchase of the property on which the San Jose school sat. There had been no success at collecting the one dollar per person for this purpose, as recommended by the Colored Convention in 1865.[70]

In San Francisco, J.B. Sanderson was appointed by the Board to teach the evening school on Broadway, and Miss Charlotte Brown opened a school for very young children.[71] Frequently, San Franciscan P.A. Bell spent the time between his

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[69] Ferrier, Ninety Years, pp. 99, 102; The Statutes of California, 1865-66 (Sacramento: O.M. Clayes, State Printer, 1866), p. 398.

[70] The proceedings of the San Jose Convention apparently were not printed for distribution. The information given here was recorded by P.A. Bell, a delegate to the Convention, and published in the Elevator, August 16, 1867, p. 3.

[71] Appeal, September 7, 1867, p. 2.

This was a rather biting judgment and possibly represented the views of only Bell, himself, at least in terms of the Petaluma blacks. But the theme of black apathy and foot-dragging on matters of racial progress was a recurrent one. It was enunciated at each phase of the black rights movement. And Bell's comments here were but precursors of what P.W. Cassey would soon pronounce. Cassey and the members of the Phoenixonian Institute had tried for years to muster State-wide black financial support for the establishment of an educational center in San Jose. The latest effort toward this end was the formation of a joint stock company, which seemingly was officially constituted in January of 1868. Stock sales went slowly and the Institute lost the option on the property it had hoped to purchase. Sale of stock continued in anticipation of finding other suitable property to purchase. But while selling continued, buying did not, and the stock venture was abandoned. Finally, out of a despair born of six years of responseless effort, the members of the Phoenixonian Institute voted to dissolve the corporation and transfer its property to the Episcopal mission run by P.W. Cassey; he was to carry on the operation of the school. Cassey, apparently more than anyone, was a victim of the situation. For the monies from the city, tuition fees, and annual dues of the Institute members had been insufficient to meet the costs of the school, so he had incurred personal debt in order to keep it open. Now the bag was his alone to hold. Yet he vowed to continue the work, though he was dismayed and disheartened. In a letter to the Elevator he stated that there was enough patriotism, love of God, manhood, and ambi-

editorial deadlines in trips and speaking tours to various cities in the Northern portion of the State. One such trip in November took him to the city of Napa, where he lectured on education at the A.M.E. Church. While in the city he secured an agreement from two board members that a school for blacks would be established if a qualified teacher could be found. Two months later a teacher had been found and a school was opened.[72] Bell's trip to Petaluma, also in November, was not so fruitful. P. Kellingworth, the pastor of the A.M.E. church there, had arranged for Bell to lecture on education at the church. But Kellingworth failed to consult with the trustees on the matter. When they heard of it they became indignant and refused to allow the church to be used "for any such unclerical purposes." [Bell's words] Alternate arrangements could not be made so the lecture was cancelled. This incident did not mean that all the blacks in Petaluma looked scornfully on education. Indeed, there was in the city the Odd Fellows Literary Association, which had a library of some five to six hundred books, plus periodicals. But according to Bell, many of these blacks were still trapped in ideas developed during their slavery in Virginia and Missouri. They had a church and they were satisfied. They had no colored school, said Bell, and they didn't appear to want one; the majority had no ideas of progress and hence made no efforts for advancement.[73]

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[72] Elevator, November 15, 1867, p. 2; January 24, 1868, p. 2.
[73] Ibid., November 1, 1867, p. 2.

tion among black Californians to sustain an effort for their improvement. But they were stifled by their own selfishness and prejudice. Cassey said that after six years of effort he was forced to conclude that "...as a people, we are not prepared to act harmoniously and effectively in carrying on any work that contemplates moral, social and political improvement."[74] In commenting on the demise of the Phoenixonian Insitute, Bell placed a large measure of the blame on the Livingstone Institute, saying had that body followed through on the proposed merger of the two Institutes that a creditable academy could have been established. But, continued Bell, selfishness and obstinancy counseled against the merger and the Livinstone Institute still had no plans for a school.[75]

San Franciscans like Bell might have been disturbed by the turn of events in San Jose but events just as alarming were taking place in their own backyard. General Cobb, a member of the School Board, made a public statement in January of 1868 that the Broadway colored school was a "nuisance". When asked to explain his statement he said that it was a nuisance because it was too close to the white school and therefore it should be moved. In response to this statement, blacks in San Francisco turned out in large numbers to a meeting on what appeared to be a developing crisis for their school. They appointed a school committee to serve as a permanent body to handle problems relating to black schools in the city. The committee's first assigned task was to draft a rebuttal to General Cobb and

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[74] Elevator, August 28, 1868, p. 2.
[75] Ibid.

a petition for more school facilities. The completed document included a statement of preference for black teachers. "This is natural", they said. "Every class of people, when they are compelled to have separate institutions, prefer to have their own race or nation at the head of such institutions." Cobb had recommended at a Board meeting that in the colored schools "...white teachers be employed - not colored".[76]

Despite the protests of the school committee, General Cobb prevailed in persuading the board to move the one hundred black children from their Broadway schoolhouse. Tentative plans were made to relocate them in a building on Greenwich and Jones Streets. The committee of the board headed by General Cobb also recommended the closure of the colored night school, which had been lagging in attendance. The recommendation was adopted.

Along with this assault on their institutions of education black San Franciscans also saw the departure of one of their outstanding educators, the Rev. J.B. Sanderson. Sanderson received in April the appointment as principal of the colored school in Stockton.[77] And he was soon to have a new edifice in which to carry on his labors: a Captain Weber (white) do-

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[76] Beasly, Negro Trailblazers, p. 181; Elevator, January 17, 1868, p. 2. Cobb's desire for white teachers in the black schools smacks of the kind of monitoring and control of black thought processes so characteristic of the slave regime. Not surprisingly, Bell's research into Cobb's background uncovered the fact that he had indeed been a slave trader in Galveston, Texas! Cf. Elevator, July 31, 1868, p. 2.

[77] Elevator, April 28, 1868, p. 2.

nated four lots to the city on condition that a new school house for blacks be erected on them to replace the spatially inadequate structure they currently occupied.[78] This was a fitting beginning for Sanderson in his Stockton venture, for it was here that he solidified his reputation among blacks and whites in the State as a first-rate educator. Though his was a local school, black parents from as far away as Los Angeles, impressed by his abilities, sent their children to study under him.[79] The editor of the Stockton Independent, after accompanying the School Superintendant on a visit to Sanderson's school, had this to say:

> "We hazard nothing in saying that he is one of the best teachers in the county, and it is only the prejudice which so extensively prevails against a sable skin that prevents him from occupying one of the highest positions as a teacher in one of the public schools. There are few men, if any, in the county who can excel him in reading, and fewer still equally gifted with the faculty of imparting knowledge to the young."[80]

But in spite of this high acclaim, Sanderson could not escape the disabilities imposed on men of color: while teachers at his level were normally paid seventy-five dollars per month for their services, Sanderson was given only sixty.[81]

The transfer of Sanderson to Stockton was a blow only to the educational struggle of black San Franciscans. However,

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[78] This same Capt. Weber, a patriarch in the Stockton community, had also donated the land, under the same conditions, for the original Stockton colored school. Cf. Elevator, June 11, 1869, p. 2.

[79] Lapp, "Jeremiah B. Sanderson", p. 330.

[80] May 28, 1868, p.3.

[81] Ibid.

at almost the same time all black Californians bore the misfortune of losing the aid of the Rev. J.J. Moore, a man who had labored long on behalf of black rights, including the right to public education. Moore was elected to the episcopacy in his denomination (A.M.E. Zion) and given a charge on the East Coast.

With the loss of two of their strongest men, blacks in the Bay City were handicapped in their fight not only to advance their educational position but to hold on to what they had already gained. The Board had resolved to relocate the students of the colored school and was prepared to stand by that decision. When school resumed in July after the summer break the Broadway colored school building was given over to the use of the adjacent white school. A racially mixed meeting called to deal with the matter dispatched a committee to the State Superintendent, the Rev. O.P. Fitzgerald, to solicit his help.[82] The Superintendent agreed with the claims of the committee and promised to use his influence at the next Board meeting to secure two school facilities for San Francisco blacks, one in the northern part of the city, one in the south; each one, he said, should be conveniently located and staffed by black teachers. He advised the committee to restrict their activities to petitioning the Board to this same effect. At the next meeting in San Francisco a petition was authorized to the Board requesting the reopening of the Broadway school to blacks. The petition apparently received no recognition.[83]

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[82] Fitzgerald was a clergyman of the Methodist Church, South, and was later elected a Bishop of that denomination. When he was nominated for State Superintendent in 1862, an article in the Call condemned his nomination as an outrage because, said the article, Fitzgerald was a "vile secessionist." Cf. Call, August 9, 1862.

[83] Elevator, July 24, 1868, p.2.

The white newspapers of the city varied on the issue. Some were insensitive to the injustice at work. For instance, the Times advised blacks to submit their petition to the Board then "...trust to their sense of justice." Seemingly, though, the Board had shown its sense of justice in closing the colored school before another was provided. The Dramatic Dispatch simply "...[did] not believe that there is any disposition on the part of the Board to deal unfairly with the colored people."[84] The Call, which supported the idea of the natural inferiority of blacks also supported the action of the Board.[85] But generally the city papers reacted negatively to the Board's action.

At that point things looked fairly positive for the black's cause: the school committee met with the State and county Superintendents and some Board members and received the promise that a new colored school would be opened as soon as a building could be constructed - some two to three months. In the meantime, they said, a temporary location would be sought; the school committee was to aid the search.[86] At the Board meeting of September 22 this plan was officially adopted.

But scarcely six weeks had passed before the cry of "treachery" was heard from black leaders. The cause was the realization that the promises made by the Superintendents and the Board

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[84] Ibid.

[85] Black inferiority was the subject of a Call article in the issue for July 23, 1873, p. 2. The August 11, 1868 issue carried an article on page 1 endorsing the action of the Board in regard to the colored school.

[86] Elevator, August 21, 1868, p. 2.

had been broken: instead of initiating construction on a new school building in a central location, an old school had been fitted up, one located on Greenwich Street, far away from where blacks lived and in a rough, dangerous neighborhood.[87] This step had been taken despite the fact that the county supervisors had allocated money for the erection of a new colored school facility. Part of the pain of the situation for blacks was that they were still denied the vote and thus had no effective legal means of reprimanding those who deceived and abused them.

Upon the advice of the school committee black parents boycotted the Greenwich Street school for some time. Eventually many of them relented and allowed their children to attend. They possibly feared the ill effects on their childrens' progress of an extended absence from the classroom while waiting for the Board to make good its promise. The election of General Cobb to Board presidency in December certainly didn't brighten the prospects for satisfactory Board action. But the influx of new members to the Board in the same election did bring what seemed to be a change of disposition. The first positive sign that this was so came in February of 1869 when evening school for blacks was opened again after a year-long hiatus. The school attracted many pupils of all ages; soon three teachers were needed to fill staffing needs. Along with the opening of the evening school came the Board decision to move the Broadway

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[87] The Greenwich location had been considered earlier by the Board then dropped. According to the Elevator, June 27, 1870, p. 2, it was reconsidered and selected in response to a petition to that effect by Peter Anderson; Bell said he acted on his own, without consulting the black community.

colored school building to Taylor and Vallejo Streets and reopen it for black use. In March, the basement of old Bethel church was rented as a temporary school site. Finally, by July, after what had begun to seem like another instance of broken promises, the Broadway schoolhouse was settled at its new location. Black San Franciscans once again had an adequate school facility, though this location was still distant and they yet awaited a second school in the south city area.[88]

The Board's action in restoring the school might have proceeded faster had there been more concerted pressure from blacks. But the initial excitement and indignation over the closing of the Broadway school slowly ebbed. P.A. Bell, frustrated over this dwindling enthusiasm, accused his fellow black San Franciscans of taking interest in "festivals, /Church/ exhibitions, and protracted meetings" while neglecting the schools and their childrens' future.[89] This apathy was not unique to San Franciscans. It was a widespread phenomenon, as attested by blacks in other parts of the State. Possibly its source lay in the seeming intransigence of the oppressive forces and the consequent feeling of the futility of struggling against them. The San Francisco situation appeared to be a case in point: after a year's contest, blacks ended up with no ground gained but rather a half step behind where they started. However, black men of vision continued to move on the premise that though whites might not concede to right out of good will, yet, "...because of their importunity...."

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[88] The material on the Greenwich school, the evening school, and the Broadway school relocation was taken from the Elevator, November 13, 1868, p. 2; February 19, 1869, p. 2; July 16, 1869, p. 2.

[89] Ibid., April 16, 1869

EDUCATION - the LEVER of ELEVATION (CONT.)

Across the State the educational picture for blacks was considerably brighter than it had been just five years earlier. Compared to the five public schools with 162 pupils of that time, there were now fifteen public schools with 396 pupils.[1] In addition there were a number of private schools and literary institutes. P.W. Cassey's school in San Jose school was apparently doing well, as was Sanderson's in Stockton. But all was not well. The colored school in Oakland met in a dilapidated building. Attendance was poor, a situation which may have been related to the fact that students had to walk five miles to reach the school. Students in the Marysville school had to suffer with woefully substandard furnishings. Blacks in Los Angeles sought a writ of mandamus in the courts to force the admission of blacks into the white schools. They failed in the County Court but vowed to pursue the case in the District Court and on up to the Supreme Court should it prove necessary.[2] There is no indication that the matter was actually carried that far. The boldness of this action by the Los Angeles blacks is revealed in that in April of 1870, just two months prior to their suit, the Legislature reversed the liberalizing trend in school laws. The statutes of 1866 had given school

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[1] Elevator, March 5, 1869, p. 2, contains a statistical chart on these schools listed by county. It is reproduced in the Appendix, p.

[2] Sacramento Union, May 3, 1870, p. 2.

board members the leeway to admit blacks into the white schools in extreme cases. The new law made the admission of blacks into white schools an offense punishable by the withholding of public monies from the offending school board.[3]

The action of the Legislature had no practical effect on the schools, for white boards were not inclined to admit blacks into the white schools anyway. But this reassertion of proscription may have given increased impetus to the continuing activities of black leaders for educational rights. New colored schools were established by blacks in Chico and Centerville.[4] San Francisco blacks appointed a new school committee and petitioned the Board for open enrollment in the schools.[5] In the city and county election of 1871, San Francisco blacks used their newly-acquired voting power in an attempt to secure better school privileges. But in light of the continuing fruitlessness of such local efforts, black leaders from the major areas of black residential concentration decided to meet in convention to see what solutions they jointly could arrive at to the black educa-

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[3] The Statutes of California, 1869-70 (Sacramento: D.W. Gelwicks, State Printer, 1870), p. 839. This was actually a reversion to the laws of 1863.

[4] Cf. Beasley, Negro Trailblazers, pp. 123, 177; Mervyn G. Shippey, A Short History of the Visalia Colored School (San Francisco: R and E Associates, 1970), p. 1.

[5] I intentionally use "open enrollment" rather than "integration". Blacks' primary desire was to take their places as other Americans in the institutions of the country. Realizing, though, the antagonism of many whites to associating with minorities, they would have been content to have separate, quality schools until this anti-black absurdity faded from societal consciousness. But the sorry state of the schools and equipment they were given convinced them that separate would never be equal. So they pushed for open access to the white schools, while making it clear that they were not pushing for interracial association, per se.

tional dilemma. And so on November 20, 1871, delegates from Marysville, Stockton, Sacramento, San Francisco, and San Jose assembled at Stockton's Second Baptist Church for the District Educational Convention.[6] The delegates - three ministers and seven laymen - met for two days of speeches, plans, and resolutions. The program they adopted included the following:

1. A petition was to be circulated for signatures and submitted to the ensuing Legislature. It would request that the words "children of African descent" be stricken from Section 56 of the school laws and that the said children be allowed common educational facilities with other children.[7]
2. An Educational Executive Committee was to be constituted by the Convention by selecting men from each county. This Committee would authorize and coordinate educational rights activities.
3. The Sacramento members of this Committee were to handle the presentation of the petition.
4. The San Francisco members were to have a bill drafted in accordance with the request of the petition.

A resolution adopted warned that if equal school rights were not granted, the matter would be appealed up to the highest court in the land.

The cause espoused by the convention soon found an influential supporter, newly-elected Governor Newton Booth. In his inaugural address to the Senate, December 8, 1871, Booth said that,

> "All badges of distinction that are relics of the slave-holding era of our National history should pass away with the system they commemorate. Until the State graduates

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[6] The proceedings of the Convention were published by its President, Peter Anderson, in the Appeal, November 25, 1871, p. 2.

[7] Note that only the interests of blacks were pursued. Seemingly here, as in other phases of the rights movement, blacks sought to avoid jeopardy to their cause which might result from identification with other, possibly more objectionable (to whites) minority groups.

> penalties it cannot justly graduate opportunities. The doors of our schools should be open to all, with no prejudice or caste without, and no sectarian teaching within which will prevent any child from freely entering.[8]

President Grant had also spoken in favor of black educational rights. The Sacramento Union offered three points in favor of black school privileges. First, on the basis of the Fourteenth Amendment, courts in Maryland, Pennsylvania and Washington, D.C., had forced transit companies to give Negroes equal access with whites; the same would undoubtedly apply to the schools, said the Union. Secondly, California's schools were richly endowed by the U.S. government and Negroes, as citizens, ought not be denied a share in the benefits. Thirdly, Negroes' tax support of the school system entitled them to access to it.[9]

The task facing black leadership was to convince the white public and white decision makers of the validity of these points and then to get them to act accordingly. It was, indeed, a task not to be taken lightly. The signs of the times were not all that good. Despite the support of the new Republican administration, the State Republican Party platform faltered on the subject of black education; it declared against application of school monies on the basis of religious distinctions but made no mention of color distinctions. And none of the State's Republican newspapers came out forthrightly in support of open enrollment.[10] Further, a compulsory education bill, introduced in the Senate in January of 1872, was meaningless for blacks:

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[8] Journal of the Senate, 1871-72 (Sacramento: T.A. Springer, State Printer, 1872), pp. 113-14.

[9] This material was printed in the Elevator, December 29, 1871, p. 2.

[10] Ibid; also Appeal, March 30, 1872, p. 2. The Pacific and the Advocate were completely silent on black educational rights.

while it required all children to attend school it did nothing about the fact that in most areas there were no schools which black children could attend. Apparently it was a law proposed essentially for whites only.[11] The signs, then, were not very good, but concerned blacks felt the task had to be undertaken.[12]

In San Francisco, W.H. Hall, a veteran of the California black rights movement, made a strong appeal to the Board in a petition to that body he pointed out that Section 58 of the State school laws required that the laws and rules applying to white schools had also to apply to colored schools. But, said Hall, this law had not been followed, and he offered as one item of proof the fact that the city's colored schools had never been graded; black children were forced to repass over and over again through the primary school, or abandon education, since no higher schools were provided for them. Hall's specific request was that the Board exercise the option given in Sections 55 and 56 of the school laws, which provided that black children may enter the white schools on a majority vote of the Board. He argued that no harm could come from uniting the more than three hundred school-age black children in the city

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[11] Journal of the Senate, p. 186; Appeal, January 13, 1872, p.2.

[12] The impetus to the task was possibly heightened by the fact that other minorities were getting an education despite the proscriptive laws. Peter Anderson pointed out in the Appeal that Spanish and Chilean children were admitted to the public schools and that the Chinese had Missionary Schools in nearly every church in the city. (He doesn't say who sponsored these Missionary Schools). He was thus incensed that Chinese had superior educational privileges while, in his opinion, blacks had superior claim to such privileges. Appeal, February 24, 1872, p. 2. The Methodists, who were active in mission work among the Chinese, were responsible for some of the schools to which Anderson referred. The Advocate frequently carried articles on Methodist educational and evangelistic outreach to the Chinese.

with the 25,000 white pupils. He closed with an appeal to the duty of acting in accordance with new federal Constitutional law (the Fourteenth and Fifteenth Amendments) which made black men equal before the law.[13]

Hall's petition was refered to the Board's Committee on Rules and Regulations, which reported it back negatively. The Committee report said that the majority vote prerogative of the Board in regard to admission of Negroes had been revoked by the 1870 law. As regards the conflict of State law with new federal regulations, this matter would be left for the courts to decide.[14]

This issue of State versus Federal law was at the heart of a dispute among Oakland's Board members over whether or not blacks should be allowed into that city's schools. In Oakland there were some fifty children of school age but no schools. Formerly existing schools were closed by the Board when some black families relocated causing the number of children remaining in the district to be less than the ten necessary to require a school. At the January 2, 1872 meeting of the Board, Board member Dr. Cole offered resolutions calling for the admission into Oakland's schools of all children ages six through twenty-one, regardless of race, color, or former condition. When the resolutions were considered at the next meeting, Cole said their passage would avoid impending legal trouble: federal law demanded fair provisions for black children; school of-

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[13] Appeal, January 20, 1872, p. 3.
[14] Ibid., February 17, 1872, p. 2.

ficials were violating the law by refusing them admittance in the regular white schools. Further, the cost of maintaining separate schools was prohibitive. And though, said Cole, some problems might result from mixing the schools, as Christians the citizens should willingly bear them.

The response of the Board members to Cole's resolutions was that they were ill-advised. There was a general feeling that the Legislature was disposed to soon change the racially discriminatory laws; it was better to await their action than for the Board to set itself in disregard of State law. Mr. Cole contended that U.S. law overrode State law. But Mr. Hamilton said that the Board was empowered by the State, and where federal and State law conflicted they were bound to uphold the latter. The Board voted indefinite postponement of Cole's resolutions. But it also authorized a petition to be sent to the Legislature setting forth the conflict in State and federal law and a committee was appointed to request from that body the repeal of the proscriptive school laws.[15]

Blacks, themselves, were also calling on the Legislature for action. The petition authorized by the Stockton Convention was numerously signed by whites, blacks, Republicans and Democrats, and then submitted. The bill, too, which the Convention authorized, was submitted, though not without mishap. The bill was to ask for the removal of laws restricting black public school enrollment. As events went, Senator Seldon J. Finney introduced a bill in the Senate to this same effect, on January 23. Supposing this to have served the purpose, the Sacramento members

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[15] Oakland Daily News, January 17, 1872, p. 3.

of the Educational Executive Committee decided to avoid duplication and so pocketed the Convention-sponsored bill. Angered by this move, the San Francisco members of the Committee, whose duty it was to have a bill drafted, had a new one made up; it was sent to Assemblyman Wheaton, who introduced it in the lower house on February 13.[16]

Finney's Senate bill proposed to repeal Section 56 and 57 of the school laws and to amend Section 53 so as to open every public school to all children ages five to twenty-one. When it came up for consideration, Finney amended the original so as to provide for separate seating of blacks and whites in the proposed integrated schools. He claimed to have done this at the request of blacks, who did not want to be obtrusive, only to have educational rights. In the discussion of the bill, Mr. Farley, speaking against, said he was "not yet ready for the free love idea." Though prejudice was unjust, stated Farley, it still existed, even in himself. Mr. Larkin pointed out that the present law already allowed school boards to admit blacks by a majority vote. Finney denied that he had advocated free love.[17] And he objected to leaving the educational fate of black children at the whim of school boards.

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16 Appeal, February 17, 1862, p. 2.

17 Seemingly the fear of miscegnation among many whites was so strong that even mention of integration conjured up visions of mass interracial union. This was the "social equality" which whites claimed to be the goal, or at least the outcome, of a successful black rights movement.

Nonetheless, Larkin amended Finney's bill to that effect, that is, black children were to be educated in separate schools unless extenuating circumstances made this impossible, in which case Boards could, by majority consent of both Board members and parents of white school children, admit the black children to the white schools. With this essentially neutralizing Larkin amendment the bill passed the Senate by a vote of 22-13.[18]

The Convention-authorized bill introduced by Assemblyman Wheaton met the same end. In the discussion on this bill, Mr. Berry offered a substitute which would reënact the 1855-56 school laws regarding minorities, requiring separate schools for all non-whites. Support for this substitute was voiced by men who claimed that some whites in the State were displeased by the revised laws of 1870. But Berry's bill was voted down. Wheaton, apparently sensing general hostility to his bill as offered, amended it to add that where there were over ten black children in a district they were to be educated in a separate school. He accepted a further amendment by Mr. Day making the organization of seperate schools for ten or more black children optional rather than mandatory. Mr. Berry expressed regret over this hedging on the Negro question. He argued that if racially mixed schools were to be accepted then in forthrightness Mr. Wheaton's original bill should be adopted since it went straight to the heart of the matter. Berry was calling on his colleagues to say either yea or nay to open enrollment. But when the vote was called, the compromised bill, as amended by

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[18] Journal of the Senate, 1872, pp. 386-87; Appeal, February 24, 1872, p.2.

Wheaton and Day, passed 36-33.[19]

The vote on both the Finney and the Wheaton bills was along party lines, with Republicans favoring, Democrats opposing. However, this gives no clear indication of the intent and feelings of the men involved since the bills finally voted on were so watered down as to retain, essentially, the standing order of things. Blacks were dismayed at this turn of events and therefore were not saddened that the Legislature adjourned before either bill passed into law.

Having failed to secure a change in the laws, the Educational Executive Committee resolved to pursue its alternative course of action, a suit in the courts. An address issued by the Committee to the people of the State set the context for the court action. It stated that most blacks in the State lived in sparsely populated areas where it was impossible to get the number of ten students in a district as required to demand a school. Even in those areas where there were ten, the school facilities given Negroes were always inferior and no provision was made for advanced education. The schools blacks had, said the address, were chiefly primary schools, teaching only the rudiments. San Francisco's black students, for example, never got beyond the third or fourth grade because the grammar schools and high schools were closed to them. Since the Legis-

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19This account is found in the Appeal, March 23, 1872, p.2, and the Journal of the Assembly, 1872, p788; It is not clear why Wheaton so readily compromised on his bill. It may be that the mood of the Assembly was less receptive than he expected. Or it may be that the Educational Executive Committee erred in their choice of a sympathetic advocate of their cause. Unlike Finney, Wheaton offered no strong defense of his measure.

Board at its April 30, 1872, meeting for admission of blacks into the white schools. But they discovered in the course of the meeting that Superintendent Campbell had already prepared a recommendation that,

> "... at the commencement of the school term in July, all children of African descent who may apply for admission to the public schools shall be received and assigned to such classes as they may be fit to enter."

The recommendation was adopted by a vote of 5 to 2.[20] The two who voted against it did so on two grounds. First, they apparently feared that a storm of public protest would follow the mixing of the races in the schools. Secondly, they were even more disturbed over the conflict of federal law, represented by the proposed open enrollment, with State law, which required segregation. But the majority of the Board took the stand that federal law superceded that of the State. The Legislature had failed to resolve the conflict so the directive of binding U.S. law was followed. The editor of the Oakland Evening Terminal endorsed the Board's action. He noted the intelligence and good behavior of black children, the financial burden of a separate school, and the impossibility of providing in a small, separate school the equal privileges which law and justice required.[21]

With the encouragement of judicial and school board rulings in favor of black educational rights, the Educational Executive Committee set about raising the funds for the court

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[20] Oakland Daily News, May 1, 1872, p. 3.
[21] Cf. Appeal, May 4, 1872, p.2.

test case. It was estimated that one thousand dollars would be needed for court costs and the fee of the attorney, the Hon. John W. Dwinelle. Fundraising took many forms: each black voter was asked to contribute one dollar; appointed and volunteer persons in many cities, from Sacramento to Los Angeles, canvassed and solicited donations; benefits were given, such as the strawberry festival put on by black women in San Francisco. There were between two and three thousand black voters in the State, who, according to the one dollar per man formula, could have more than supplied the one thousand dollars needed. But allowance had to be made for the continuing apathy among many blacks in regard to the education issue. And then, not everyone supported the test case idea. Peter Anderson, who wielded influence through his paper, the Appeal, initially refused to cooperate; he preferred to await the action of the national Congress on the pending Civil Rights Bill which hopefully would specify educational rights for blacks.[22] The blacks of Butte county also withheld support. They pointed to the voluntary action of the Oakland Board and the Trinity County Board in opening enrollment and the promise of the Chico (Butte County) city Board to do the same.[23]

A handicap not only to the fundraising but to the overall rights movement was the loss of one of the strongest advocates of the black cause, the Rt. Rev. T.M.D. Ward. The A.M.E General Conference (national) which met in June assigned him to head the Florida-Alabama-Mississippi-Georgia Conference; the

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[22] Appeal, May 18, 1872, p. 2.

[23] Ibid, September 18, 1872, p.2.

General Conference apparently felt that the myriad talents of Mr. Ward would be more productively applied in that district. He was to be replaced by Bishop Alex W. Wayman.

Inspite of these impediments, the fund-raising drive managed to reach the stated goal by late July. Counsel Dwinelle then began preparing papers for the case. And on September 28 he entered in the State Supreme Court the suit of A.J. Ward, Guardian, on behalf of Mary Frances Ward against Noah F. Flood, Principal of the Broadway School; the case was heard October 22.[24] In the petition for writ of mandamus, Supt. Flood stated that by law and custom in San Francisco, children were to attend the school nearest their home. Therefore when school opened in July she took her daughter, Mary, to the Broadway Grammar School, the lowest grade of which Mary was qualified to enter. Ms. Ward said that principal Flood, without inquiring as to Mary's residence or qualifications, firmly refused the application for admission; the only reason given was that Mary was black and the Board required the education of blacks in separate schools. Flood's response admitted the truth of Ms. Ward's statements. The defense of his action he based on the existing rules of the Board prescribing separate schools and on the failure of Ms. Ward to present the proper certificates of transfer entitling

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[24] At a public meeting of blacks in San Francisco, it was decided that parents should take their children to the public schools in their home area in July and apply for admission. This was done by a number of families, all of whose applications were refused. Seemingly one of these families was selected, or volunteered, as the "guinea pig" for the test case. It may be that the decision to apply at the schools was consciously designed to create a clear, documentable instance of school discrimination so as to have a basis for a suit.

Mary to enter the higher school.[25]

In arguing the case, counsel Dwinelle concentrated upon the claim that in accordance with the Civil Rights Bill of 1866, and the Thirteenth, Fourteenth, and Fifteenth Amendments, black citizens had a right to attend the public schools of the State and could not be forced to attend separate schools. He referred to an apparently prominent argument advanced in support of the State's defiance of the federal laws, namely, that the State was exercising its police power. Dwinelle's response to this argument was one of impatient irritation:

> "The police power - the last resource of tyrants, the last weapon for its assassination of written constitutions and of free institutions! Urge it in Russia, or to the despot who simulates republicanism in France, but here it is not worth an attempt at argument."[26]

Blacks anticipated a speedy, favorable decision from the court, given what seemed to them the clear-cut adherence of their claims to the spirit and letter of the Fourteenth Constitutional Amendment. When a month passed and no rendering had been made, there was concern, though apparently no alarm. But when the second month went by without a decision their concern over the delay turned to aggravated bewilderment, for cases heard after Ward vs. Flood were receiving decisions. Some thought the courts were awaiting Congressional action on the Civil Rights Bill so as to gain some direction and justification for a decision. Others thought that the court was trying to

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[25] Sacramento Union, February 25, 1874, p. 3. A lengthy review of the case is presented, including the complete statements of plaintiff, defendant, and justices. The arguments of the counsels are omitted.

[26] Beasley, p. 181-82.

sound out public opinion and so to rule accordingly. But in February of 1873, four months after the case had been heard, their came a blow which seemd to prove to blacks that their misgivings about the court were well grounded, their hopes for justice ill-conceived - the court adjourned for the current term, having given no ruling or comment on the case of Ward vs. Flood. A disappointed black community could only await the new term andhope admist a hope-challenging situation.

While the test case was being taken through the courts some other noteworthy events were transpiring. Peter Anderson was dividing his time between his editorial duties and a State-wide lecture tour on the subject of the past and present condition of black education and prospects for the future. In San-Francisco the members of the Livingstone Institute, organized to establish an academy or college for black higher education, voted to dissolve the corporation. The reasons given were that the inroads into the slave power and proscriptive laws effected by the War and subsequent legislation had made the establishment of separate schools by blacks inexpedient. Also, the initial zeal over the Institute's project seemed to have been quenched, partly because public interest was absorbed by the War. The $8,260 in the Institute's treasury, two thousand short of the $10,00 goal was restored to the shareholders. Both of the black attempts at founding centers of higher learning had now failed.[27]

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[27] Appeal, January 11, 1873, p. 2

The turn of events in Sacramento was somewhat more encouraging. Sacramento had been among the first California cities to have a black public school. But the city paid only a portion of the costs of the black school, black citizens contributing the rest. And blacks had consistently been denied entrance into the white schools. The rigidity of this refusal highlighted the absurdity of an action by the Board in June of 1872: during the annual school examination the Board granted two black children diplomas entitling them to move into the Grammar Department of their school. This was fine, except that there was not then, nor had there ever been, a Grammar Department in their school (indeed in any black school in the State), and entrance to the white school was not an option open to them.[28]

However, the Sacramento School Board eight months later initiated a reversal of policy which provided a logical context for such promotions of black children. At its January 27, 1873, meeting the Board voted to repeal its Rule 46 which prohibited Indians, Mongolians, and children of African descent from entering the public schools. Thereafter, the offical position of the Board was to be that the city's schools were to be open to all students, regardless of color.[29] But for the time being, the separate colored school was to be maintained and the Superintendent was instructed to admit Negroes to the white schools only with the express permission of the Board. The feeling seems to have been that the Supreme Court would soon rule on the constitionality of the State's school segregation laws, so

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[28] Ibid., June 22, 1872, p. 2.

[29] A resolution to retain the prohibition against Chinese (Mongolians) was rejected.

that full-scale open enrollment would best be postponed until then. Confirming its intention to move toward racially mixed schools, the Board approved the application of Horace W. Cady for his son to enter the public night school.[30] The Superintendent was not fully in accord with the Board's decision to admit blacks and for a while made it difficult for black parents who applied for admission of their children. But in a couple of weeks he relented and several blacks were received into the night school.

By February, 1873, the Supreme Court had resumed session. P.A. Bell expressed the hope that the move of the Sacramento Board would serve as a weatherwane to the Supreme Court as to the trend of the people, since the Court seemed to have that factor in consideration. Bell was probably hopeful that the Court would be influenced by the liberal precedent of Nevada and Oregon which had taken steps toward open enrollment in their public schools.[31] But the Court uttered nota sound. And most of the papers in the State let the matter pass without comment, though from time to time articles did appear outlining an editors views on the racial situation in generaal. For instance, in February, the editor of the San Francisco Chronicle wrote a piece in which he claimed there was a standing antagonism between whites and blacks, and relief from the antagonism could only be found in the "...annihilation or displacement of one of the warring elements". Yet he said that "...he

[30] Proceedings of the Board were regularly published in the Sacramento Union. The material here presented is from the issue of January 28, 1873, p. 4.

[31] Cf. Appeal, March 9, 1872, p. 2; Elevator, April 27, 1872, p.3.

/the black man/ is still with us in sympathy, in interest, in habit, in language, in religion... . In everything but race and color he is one of us."[32] In light of the second statement one is forced to ask, wherein, then, the antagonism? The juxtaposition of these two statements by the editor is illustrative of the irrational character of racial prejudice.

Black Californians did not deny the unity between blacks and whites in sympathy, interest, habit, and religion. This unity as Americans was, in fact, the theme of the Declaration of Sentiments offered at the 1873 San Francisco commemorative celebration of the passage of the Fifteenth Amendment. The Rev. Hillery, pastor of the city's Zion church and the Orator for the day, expanded on the claims of black-white unity, equality, and consequent equal rights as expressed in that Declaration. He argued that, "The doctrine of the natural equality of men did not originate with the /founding/ fathers, but is God-given and eternal...." Hillery called the attention of his hearers, and all black Californians, to their peculiar duty, namely, to draw upon God's help and the authority of the Fourteenth and Fifteenth Amendments and the Civil Rights Bill (pending), to open all public schools in the State to undiscriminatory admission.[33]

The editors of the State's two black newspapers offered practical guides for meeting the challenge which Hillery had set. It seemed to them that the Court was awaiting Legislative action on the black education issue and some indication of white citizens' feelings on that subject. So they advised blacks that

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[32] February 10, 1873, p.2.

[33] Elevator, April 5, 1873, p. 2.

any legislative candidate (or any other) who might come seeking their votes for the September election should be questioned as to his stand on the school issue; pledges to work for equal school priveleges should be sought from them and votes cast according to their answers. The party of the candidates was not to be considered, for it would be better to elect a sympathetic Democratic Legislature than to continue to suffer the subterfuge of Republicans, the black man's supposed friends; a Republican Legislature and Supreme Court had thus far obstinately refused to give satisfaction on the matter.[34] This same advice on using the power of the vote on the education issue was incorporated in two addresses to blacks, one by a group of Sacramento blacks to the black residents of that city, the other by the State Educational Executive Committee to black voters throughout the State.[35] Articles printed in the black papers indicate that the advice was followed.

The tally of the election returns awarded most of the contested legislative seats to Republicans and Independents. The vacant Supreme Court seat went to Independent Judge McKinstry. Blacks now had to wait and see what each of these governmental bodies would do for their school rights. In addition, two other avenues to educational rights were open: the Civil Rights Bill pending in Congress and the independent action of local school boards.

The first avenue, the Civil Rights Bill, had commanded the

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[34] Ibid., July 5, 1873, p. 2; Appeal, May 17, 1873, p. 2.
[35] Union, June 21, 1873, p. 5; Elevator, July 26, 1873, p. 3.

attention of blacks nation-wide. In fact, the upward movement of the black American's civil status was deemed to depend so strongly on this Bill that the Pennsylvania State Equal Rights League (black) called a national convention of blacks for the purpose of "...impressing on Congress the absolute necessity of passing a Civil Rights Bill".[36] It was to be held in Washington D.C., December 9, 1873. In California the idea of a national Civil Rights Convention elicited much enthusiasm among black leaders. Sacramento took the lead in rallying the people behind the idea. At a meeting held in the Siloam Baptist Church, a preamble and resolutions were adopted which declared that the problem of black rights was national in scope because civil restriction, political ostracism, and inhumane laws actuated both State and National governments. Especially deplorable were the school restrictions, "...because the future status of our race depends almost entirely upon the educational advantages vouchsafed to our young". Black Californians were therefore called to meet in Sacramento in convention to select delegates for the national convocation. San Francisco responded by choosing twenty-four representatives for the State convention, including Bell, Anderson, and the Reverends Fletcher, Smithea, and Triplett (then the pastor at Bethel A.M.E.). Oakland blacks chose the Rev. J.B. Handy of First A.M.E. and Mr. Theodore Cromwell. Many other cities responded likewise.[37]

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[36] Editor Bell quotes this presumably from the official announcement of the Convention, which he received from Frederick G. Barbadoes. Cf. Elevator, November 8, 1873, p. 2. Barbadoes, who was active in the early rights movement in California, now held a job with the U.S. postal service in Washington.

[37] The foregoing material on the events leading up to the State Convention is taken from Elevator, November 1, 8, 15, 22, 1873, p. 2. (in each case).

When the State convention commenced on November 25, sixteen counties were represented, including Los Angeles in the far southern portion of the State.[38] The first order of business was the selection of a delegate to the national meeting. The man selected to go was Basil Campbell of Yolo County, a man not seen in the forefront of the rights movement up to that time but one apparently well respected by a wide circle of black leaders. Next the Convention adopted a number of resolutions presented by the Rev. Hillery's Resolutions Committee. Chief among them were these:

1. Black agitation will not cease until a civil rights bill is passed which will secure to black citizens their full rights, priveleges and immunities.
2. The California Supreme Court refusal to rule in the Ward vs. Flood case is a tacit support of proscription.
3. Support will no longer be given to any candidate for office who is afflicted with colorphobia so as to deny black rights.
4. A petition will be sent to the ensuing State Legislature requesting a reform of the discriminatory school laws.
5. Blacks of the West join hands with their brothers of the North, East, and South "...in their holy war of right against wrong..."

Also adopted was the report of the Education Committee, which declared that with the passage of the Fourteenth and Fifteenth Amendments every citizen was accorded equality before the law. In every department of state, in the holding of any and every office, the principle of equality applied, said the report, "... until we come down to the very alpha of human utility, the school house, and here equality before the law stops..."

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[38] The proceedings of the Convention are recorded in the Sacramento Record, November 26, 27, 1873, p. 3 (in each case). According to P.A. Bell, the attendance at the Convention was poor due to a lukewarmness and indifference among blacks. Many, he said, believed that the millenium had come with the passage of the Fifteenth Amendment; black men should seek advancement politically through the Republican party; separate black institutions and agencies were to be shunned. Some claimed this black convention to be their last. Cf. Elevator, December 6, 1873, p.2.

The Convention named a three-man committee from the Sacramento delegation to serve as lobbyists for the black cause at the next legislative session. And a twenty-one member body was appointed as a State Central Committee, to be a permanent organization to oversee black interests. Adjournment came the afternoon of the second day.

The Sacramento Record recommended to its readers' attention the resolutions passed by the Convention.[39] The Record said:

> "That their demands are equitable and proper can only be questioned by those who allow irrational prejudice to obscure the natural sense of justice."

It argued the correctness of black criticism of the Republican party for failing to follow through to the logical, legal conclusions of the War. It was the duty of the party to fulfill the expectations of the ex-slave, black citizen that all caste discrimination be abolished, and where this had not been done it was a testimony to the failure of Republicans in their duty. The Record said in conclusion that:

> "...in taking the steps they have to secure for themselves the equality of which no just legislation can deprive them - nor any constitutional legilation - the colored citizens are exercising an undoubted right, which we trust will procure for then the prayers of their petition."

This statement is noteworthy for it places the final authority for the rights struggle above both State and Federal law and the Constitution. In this respect it is in seeming accord with the argument of blacks, which pointed to the Constituion as the immediate basis of claims for equality while claiming God as the ultimate authority.

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[39]The following material is from the issue of November 27, 1873, p.2.

Persuading the Congress to accept this line of reasoning and to act thereon was the task of the National Civil Rights Convention. The Convention, attended by some three hundred delegates from nearly every State and territory, presented its case in a memorial directed "To Congress and the American People".[40] The document expressed confidence that Congress would of its own pass a bill guaranteeing Negro rights to equal accommodations in public transit, hotels, public places of amusement, and like facilities. But, said the memorial, there were indications of some objections among Congressmen to Federal action against race discrimination in school enrollment and the empaneling of juries. Thus the focus of concern was on these two issues.

The chief objection to Congress acting in these areas, according to the memorial, was the contention that the Constitution did not permit such intervention in the affairs of the individual States. The Convention, through the memorial, answered this objection with three lines of argument. First, the States-rights theory and its supporting precedents in the courts were set forth by men under the awesome influence of the institution of slavery. The slave interest was so pervasive and overshadowing as to bend church and state, morality and law, to its sinister cause.[41] States-rights was essential

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[40] Printed in the New National Era, December 18, 1873, p.3.

[41] For an in-depth treatment of pro-slavery thought among nineteenth-century American religious leaders see H. Shelton Smith, In His Image, But.... 1972).

to slavery and became a powerful force in juridicial thought. Those Congressmen whose conceptions of law and political economy were informed by the thought of the by-gone slavery era must put those old conceptions in submission. For Congress' power to protect national rights such as the right to an impartial jury was inherent in the character of American government. Amplifying this point, the memorial recalled that the Constitution declared itself and the laws made pursuant to it to be the supreme law of the land and empowered Congress, in Article I, Section 8, to make all laws necessary to the execution of government. The Constitution made trial by impartial jury a constitutional right, thus making Congress its protector.[42]

Secondly, the memorial brought the right of unrestricted public education under the wings of the Constitution and Congress by subsuming it under the right of property. The common school is paid for by all citizens via the taxes which are collected for that purpose. Therefore they are owned in common by the citizenry. Private schools are an option for those who decline association with certain classes of people in the schools. This option ought be taken rather than denying to those classes what rightfully belongs to them. The Constitution forbids the depriving, by an individual or a State, of a citizen's life, liberty, or property without due process, or denying him equal protection of the laws.

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[42] The argument actually deals only with the right of Congress to intervene in the judiciary of the States; it assumes, without debate, that the prosciption of jurymen on class or color lines negates impartiality.

It also forbids a State to make laws which abridge any persons privileges as a citizen. But it is such an abridgement to deny a citizen, on the basis of his color, the choice of the school he shall attend. And to deny him the use of the schools he pays for and thus owns with others is to deprive him of his right of property. Further, it is not equal protection of the laws to deny a person the use of what belongs to him or to force him to accept what someone regards as an equivalent.[43]

Thirdly, the memorial held up to Republican Congressmen, who controlled the Legislature, their own platform statement bearing on this matter:

> "Complete liberty and exact equality in the enjoyment of all civil, political, and public rights should be established and effectually maintained throughout the Union by efficient and appropriate State and Federal legislation."[44]

In response to this the memorial called to Republican attention that,

> "It is not complete liberty and exact equality to be compelled to go to a proscribed school; to be tried by a jury from which every individual of the class to which the party tried belongs is excluded because he is of that class."

In addition to presenting these arguments to the Congress, the Convention dispatched a delegation to meet personally with President Grant. In the interview, they expressed their thanks for the President's past service to the cause of blacks and their hopes that Congress would remedy the remaining injustices against black citizens. Mr. Grant's comments were to the effect that he bore the same hopes.[45]

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[43] The memorial thus rejects "separate but equal" in education.

[44] Quoted in the memorial.

[45] New National Era, December 18, 1873, p. 3.

Through the National Civil Rights Convention blacks had made their corporate plea for justice to the highest seats of power. They had now to await the response, in the form of Congressional action on the pending civil rights bills, that of Mr. Charles Sumner in the Senate and the one of Mr. Butler in the House. However it was to be some time before any final action was taken on either of these.

While awaiting this action and the decision of the Court on the mandamus case, California blacks had another avenue to pursue for their educational rights, the local school board. The Oakland Board had already taken the bold step of open enrollment. Sacramento had made motion in this direction in early 1873. Then in July of that year it took a major step by declaring that any student may pass to a school of higher grade upon successful completion of an examination. The Superintendent was instructed to receive such students.[46] Now non-white children, at whom the measure was directed, could not only enter a given level of the white schools but could pass through the whole system. This was limited open enrollment: the colored school was retained as the point of entry of blacks into the educational system; from here the way was essentially open. A month after this new policy was adopted two black students were admitted to the public Grammar School. At a meeting in December, the Board reaffirmed its open enrollment stance then admitted two more blacks to the Grammar School.

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[46] Union, July 22, 1873, p. 3.

But the Board did not enjoy the full support of Sacramento's citizens. In fact, it seems that much of the citizenry was hostile to race mixing in the schools and in the December, 1873, elections had voted in a school Superintendant, A.D. Hinkson, who would oppose this process.[47] Upon taking office in January, Hinkson issued a circular to all teachers instructing them to admit no black children to their schools. He forbade A.H.McDonald, principal of the Grammar School, to admit two black children who had previously received permission from the Board. McDonald defied Hinkson's order and admitted the two students. Thereupon Hinkson served suspension notice on him and appointed the vice principal, a Ms. Williams, to temporarily fill his place. Both McDonald and Williams initially refused to honor the notice but they later acceded, subject to the action of the Board. The Board held a special meeting to consider the case. Hinkson argued that it was a prerogative of the Superintendent to suspend any teacher for cause until the next meeting of the Board, at which time the dispute would be ajudicated. The cause in this case was McDonald's defiance of the order of his superior officer. The order, itself, said Hinkson, was based on the laws of the State which he was bound to uphold. The Board rejoindered that McDonald had acted in accordance with the expressed policy of the Board and he therefore could not justly be suspended. Further, the Superintendent was bound to carry out the policies and wishes of the Board and to be subordinate to it, even as the teachers were.

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[47] Cf. Sacramento Record, January 6, 1874, p. 2.

Therefore, said the Board, Hinkson had acted outside of his authority and outside of reason in suspending a teacher who had done only what the final city school authority, the Board, had ordered. Hinkson reiterated that the final authority, to which he was answerable, was State law. The Board condemned his action and reinstated McDonald.[48]

The Sacramento Record noted the developing conflict between Hinkson and the Board as well as that between State and federal law on the black education issue. The editor said that the law upon which Hinkson claimed to base his action was voided by the Fourteenth and Fifteenth Amendments. It was incumbent on the Legislature to resolve the matter; surely, he said, that body would not flaunt the supreme law of the land and leave a discriminatory school law on the books.[49]

There was some motion in the Legislature toward resolving the conflict. In December, Assemblyman J.F. Cowdery of San Francisco introduced a bill to amend Sections 1662 and 1665 of the Political Code and to repeal Sections 1669-71. These sections had to do with the management of the public schools. The proposed amendments in the final two sections were to the effect that all schools would be open to the children of every person who was, or planned to become, a U.S. citizen, provided the person resided in the district of the school to which he wished to send his child. To accomplish this, Cowdery's bill simply proposed striking the word "white" from these sections. Sections

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[48] Union, January 9, 1874, p. 3.
[49] Record, loc. cit.

1669-71 were to be repealed because they specifically required separate schools for non-white students.[50]

On January 30, Cowdery addressed the Assembly on behalf of his bill.[51] He stated that his bill was offered in response to the fact that State law provisions for separate, equal schools, easy of access to all people, had not been fulfilled. And there was no prospect that they would be fulfilled because the expense would be prohibitive and it would be impractical to provide separate schools for the small, scattered black population. To meet the expense would require increased taxation or shortening the school term, either of which would hurt blacks and whites alike. But to allow blacks to grow up in ignorance would result in injury to the State, for the law allowed blacks to hold positions in government, which only learned men should occupy.

The inequity of the present system, said Cowdery, was shown in the relative amounts spent per capita to educate black and white students. For the former it was $9.24 per year; for the latter it is $15.45. Cowdery pointed out as further proof that while there was one white school for every 83 square miles, there was one colored school for every 7,388 square miles. Holding up his own city, San Francisco, where the bulk of blacks lived and where the proportion of colored schools to land area was relatively high, Cowdery illustrated the disadvantages of

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[50] Journal of the Assembly of the Legislature of the State of California (Sacramento: D.H. Springer, State Printer, 1874), pp. 254. Elevator, December 20, 1873, p. 2.

[51] The following is taken from, "The Word 'White' in the California School Laws", the speech of the Hon. J.F. Cowdery presented before the California State Assembly, January 30, 1874. Printed for the Executive Committee of the California State Convention of Colored Citizens. California pamphlets, Vol. 8, N. 10, found in Bancroft Library.

blacks: white children walked or rode only a few blocks school; black children had to walk six to eight miles a day in transit to and from their school.

Cowdery next spoke to the common objections raised to admitting blacks into the white schools. He quoted one group of objectors, whom he identifies as the "modern frequenters of Bascomb's grocery," as saying that "...I didn't want my daughter to marry a nigger anyway." Others, he said, reject the inclusion of blacks "...because their morals are so bad that they might corrupt the white children." Cowdery confessed that for a long time he accepted this latter reasoning because, as he said,

> "I forgot that many of the brightest names of men and women who adorn the historical pages of Southern chivalry were suckled by Negro foster mothers and played all their childhood with their fathers' slaves..."

Cowdery said that when he came to himself he decided to check out the factual basis of the accusation. He discovered in the U.S. Census of 1870 that in California one black in 1424 was a pauper whereas among whites it was one in 505; one black in 712 was convicted of a crime, while the figure for whites was one in 354. The statistics, then, seemed to make the accusation groundless. And at any rate, said Cowdery, the 944 school-aged blacks in the State could hardly have noticeable effect on the character of the 136, 596 white students.

Cowdery called on his opponents to put away insupportable arguments and be fair enough to admit that they opposed his measure because of their lingering slavery-era prejudices. He

reminded them that California did not permit Negro testimony until the federal government intervened and forced her to do so; the same would surely happen on the education issue. He urged them to choose the course of right of their own accord and not suffer the shame of being forced into it.

Cowdery had argued well his point. His position was supported by Gov. Booth who, in his first biennial message, delivered in December, had declared,

> "I am of the opinion that the words 'white' and 'colored' should be stricken from our school law. They are a badge of the past. Every child born on our soil should have an equal inheritance in the institutions of our common country - an equal right to a fair start in the race of life."[52]

The San Francisco Post commended the strength of Cowdery's argument. The editor said that the only objection in his mind was that Anglo-Saxons had an antipathy and a contempt for dark-skinned races. While this sometimes resulted in brutality, he said, it "...has been the means of keeping its blood pure, and making it the great conquering and colonizing race."[53] But, he continued, whites had taken the Negro into political partnership (via the Fourteenth and Fifteenth Amendments) so they had just as well make the thing complete and admit the Negro to the schools. There were not enough blacks on the Coast to affect white blood,

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[52] The full text of the message is printed in the Journal of the Assembly, 1874.

[53] This is a clear expression of the concept of the white Americans' "manifest destiny", an idea given much currency in this expansionist period in American history. For a more complete, representative statement of this idea see Josiah Strong, Our Country

anyway, he said.[54]

Yet, the power and eloquence of Cowdery's speech and the backing of the Governor were to no avail. When Cowdery's bill came up for vote February 5 it lost by a count of 42-34.[56] Fifteen Republicans and Independents cast votes with the Democrats for the defeat of the bill. Peter Anderson published in the Appeal a breakdown of the vote by name, party, and legislative district. Black voters were urged to cut out the list and use it as a guide in future elections so that no one who had opposed black rights would receive again a black vote.[57]

And then, three weeks after the defeat of the Cowdery bill came the event so long awaited, so invested with hopes and expectations - the decision in the Ward vs. Flood mandamus suit.[58] In giving its decision the Court reviewed the arguments of both sides. Mr. Flood, said the Court, had claimed that he had acted in accordance with the law which provides for Negro education in separate schools; that the pupil did not present the proper certificate of transfer; that Mary Ward was not sufficiently advanced to enter even the lowest grade of the school.

To this the Court replied that the plantiff, Mr. Ward, had charged that the refusal was on the basis of color, alone; though all the defendants accusations were true they were not relevant

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[54] The Post, February 10, 1874. According to Mr. Peter Anderson, the Oakland Transcript and the Sacramento Record were alone among Republican newspapers in consistent support of black educational rights. The San Francisco Examiner had consistently opposed it. Cf. Appeal, February 14, 1874, p.2. The Chronicle attributed unequal black school rights to "base prejudice". But it advised blacks not to press for their full rights. Prejudice, it said, must die out gradually. If blacks were to persist in entering the schools, white parents would withdraw their children. They would then blame blacks for causing their children to grow up in ignorance. The net result would be an increase in white hostility to blacks. Chronicle, January 7, 1874, p.2.

[56] Journal of the Assembly, 1873-74, p. 544.

[57] Appeal, February 14, 1874, p.2.

[58] The text of the Court's decision together with a review of the case is found in the Union, February 25, 1874, p. 3.

as defense against the charge. If the Superintendent acted on one ground in the refusal, he could not now set up new grounds to support his refusal; he must argue solely from the original grounds.

However, said the Court, this did not apply in the case at hand; the right of admission must be determined by law. And if, as the record clearly showed, the petitioner was not qualified as required by law to enter the lowest grade of the school, then regardless of the reasons given by the defendant in refusing admittance, he must be said to have acted correctly in refusing her. On the strength of this alone the application for writ must fail.

The Court, however, carried the matter further. Assuming, it said, that the only objection was her color, she was at the time of application a student in a colored school maintained on equal terms with the school for white children, as required by the statutes of the State (Acts, 1869-70, Section 56). Unless this law was unconstitutional then the defendant was justified in acting in accordance with it. The Court recalled to attention that the counsel for the plaintiff had not argued that it was unconstitutional, but only that it was in conflict with the Thirteenth and Fourteenth Amendments to the federal Constiution. The conflict, claimed the Court, was not apparent in the present case; the very relatedness of the Thirteenth Amendment was not at all evident. The Fourteenth Amenment provided that the rights of citizens could not be denied or abridged to any citizen. But the right to attend State-supported public schools was not a right of citizenship per se.

Then, focusing in on the heart of its decision, the Court

stated that the Fourteenth Amendment did require "equal protection of the laws" for all persons, and the Constitution, the highest law, required the establishment of a public school system for educating all persons. Equal protection, it continued, assumes equal legal rights, and in California all persons ages five through twenty-one enjoy the right to public school education. Thus, said the Court, the Political Code admits Negroes into the public schools. And though they are directed to separate schools, no conflict could be seen between this and the Constitution. In conclusion the Court declared that the exclusion of black children from white schools could be supported only where separate schools actually existed. When and where they did not, black children had the full right to attend the public schools of their district. The petition for writ of mandamus was therefore denied.[59]

The decision of the Court was essentially an affirmation of the States' rights and separate but equal doctrines. It offered one positive advance for blacks in that it required all school districts to live up to at least a minimal adherence to the separate but equal concept: all black children now had to be provided with a school. But the ruling made no provision for enforcing the "equal" requirement. Indeed, the court in its decision had declared the San Francisco colored schools to be equal, while Cowdery in his speech and blacks in their continued protest had claimed they were substandard. Local boards could thus get by with any caliber of school set up for blacks, as long as a school existed. Yet of greater import was the fact that the court had failed to resolve the conflict between State and federal law. Rather it declared that the alleged conflict was non-existent.

[59] The secular press noted this critical decision but the religious press did not.

Still, black Californians were given a concrete entering wedge into the educational system. They now had some leverage for securing at least a modicum of educational provisions for their children. The Elevator strongly urged blacks to take full advantage of this concession. It advised blacks to go even further than that: since the Court recognized the right of black people to equal educational facilities, then wherever the established colored schools were deficient in facilities or where all the branches taught in white schools were not included, black parents should send their children to the white schools.[60] Presumably if they were not admitted they were to take the matter to the local courts, there to argue on the basis of the mandamus decision. The Appeal looked to the still-pending Civil Rights Bills and to the action of local boards as remedies for the Court's disappointing decision.[61]

Congressional action on the Civil Rights Bills proved to be only another cause for dismay to blacks. By May, Senate Republicans were considering modification of the Sumner Bill so as to make it more acceptable to all. One of the proposed changes, supported by California's Sen. Sargent, was an acceptance of separate schools and public accommodations, provided that equal privileges were extended to all. Blacks, of course, had long since concluded that separate was inherently unequal. This revision was finally rejected and the Sumner Civil Rights Bill passed the Senate, 25-16. But while compromise failed, delay succeeded: on June 23, Congress adjourned, having passed neither the Sumner nor the Butler Civil Rights Bill into law.[62]

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[60] Elevator, March 7, 1874, p.2.

[61] Cf. Appeal, Fevruary 28 and March 7, 1874, p.2(in each case).

[62] Cf. Elevator, May 16, 1874, p.2.

The hope of black Californians now for full educational rights seemed to be in the favorable action of local boards. Before blacks in San Francisco had time to press for such action in their city, Board member Davis presented to his fellow members a resolution calling for an end to colored schools, which he said not only violated the Constitution but were costly to maintain. However, Davis could not muster sufficient support. Mr. Spaulding said raising this issue would cause unnecessary friction in the department. Presuming to speak for blacks, Spaulding said they didn't want to send their children to white schools, where they would be physically abused; this surely would happen given the mood of society. It was best, he said, to leave well enough alone. Mr. Huilbert stated that his understanding of the Negroes' wishes differed from that of Spauding.[63] Mr. Donovan claimed that the colored schools were as good as the white schools; he expressed reservations about mixing of races in schools. When the vote was called on Mr. Davis' resolution it lost by 6-6 tie.[64]

The Board thus failed to act for the improvement of the educational situation. One visitor to the main colored school, the Russian Hill-Taylor Street school, termed it "a most wretched, pestiferous shanty".

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[63] The Rev. P.W. Cassey did write to P.A. Bell that a black family in rural Santa Clara County refused his urging to send their children to the white school because the mother feared of the abuses they might receive. Cf. Elevator, October 3, 1874, p.2. I have found no indications as to how prevalent this fear was.

[64] Chronicle, April 16, 1874, p.3. Commenting some months later on this situation, W.H. Hall attributed the interest of some Board members in black education to their belief that the

children here because of the steep climb necessary to reach it. The second school, located in a rented residence, was also sub-standard. Yet the city spent five hundred tax dollars each month to maintain these schools for only some fifty black pupils. Further, no black child had ever graduated from a grammar school or entered a high school because there were no such schools open to blacks; black students had to content themselves with endless repetition of the Primary grade. The absurdity of this was demonstrated in the fact that one girl in the Russian Hill school was eighteen years old and some others were not far behind her in age![65] By the admission of some Board members, the teachers of the colored schools were incompetent. That only one-third of the black school-aged children of the city attended the colored school was seemingly the result of the demoralizing effect of the blacks' educational predicament. Blacks were certain that this state of things would remain as long as there were separate schools.

But had the San Francisco Examiner had its way, the schools would never be mixed. In a two-part series on "The Negro As He Is", the editor warned that "practical miscegenation" would result from the early association of the races in the schools. He quoted the Bible (Genesis I) to show that such a biological mixing was contrary to divine ordinance. He then quoted Louis

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Sumner Civil Rights Bill was about to be passed: they figured to change their anti-Negro policy before being forced to do so by the law. But when the bill failed, said Hall, their interest vanished. Cf. Elevator, Ocotober 24, 1874, p.3.

[65] Appeal, April 25, 1874, p.2.

Figuier's book, Race, to prove the anatomical inferiority of the Negro and Carl Vogt's "Lectures on Man" to show his inherently offensive odor.[66] Other like proofs of Negro inferiority were proferred.

In some other cities black educational rights fared better. In May, the citizens of Oakland re-elected the Superintendent who had inititated open enrollment in the schools. Shortly after school resumed in July, following the summer recess, the black students of Vallejo were admitted to the city's white schools. The threats of some white parents to withdraw their children should the schools become mixed were never actualized.[67] And in Marysville, a committee of black citizens petitioned the Board to either establish graded colored schools or admit black students to the appropriate white schools. The Board voted to accept into the white schools all black children who had advanced beyond the level of the ungraded colored school.[158]

For blacks in Sacramento the educational climate was cloudy and mild. At the first Board meeting following the Court ruling on the mandamus suit, Board member Knox moved that the resolution admitting the two black children to the Grammar School be rescinded. But Board president Tracy offered a substitute motion to the effect that since the Court had ruled that Negroes were entitled to equal privileges in separate schools, then there should begin immediately the acquisition of a suitable building

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[66] Examiner. March 31, 1874, p.2; April 1, 1874, p.2. A black man of Sacramento claimed to have heard delivered in that city a statement of similar sentiment: "God in His wisdom made this people [blacks] and made them inferior to the Anglo-Saxon race, and it is simply sacrilege on our part to attempt to break down the barrier the Great Creator has made." Cf. Elevator, December 12, 1874, p.2.

[67] Vallejo Evening Chronicle, July 7, 1874, p.3; Elevator, July 25, 1874, p.3; Marysville Appeal, July 28, August 1, 1874, p. 3, 3.

for a grammar, intermediate, primary, and night school for black students. Until such provisions were made the two black children should remain in the white Grammar school.

In the course of the ensuing discussion, one Board member presented the opinion he had secured from State Attorney General John L. Love on the colored school issue in light of the Court decision. Mr. Love took the position that the two colored children had the ight to remain in the white Grammar School unless the city provided for them a school in all respects equal to it. The opinion of a Judge T.B. MacFarland was also read. The judge asserted that the city was obligated to build a separate school only if black parents demanded it. In such a case the school had to be equal to the corresponding white school. After further discussion, the matter was tabled. For many months it was not taken up again. And so, in July, A.H. McDonald, principal of the Grammar school, welcomed to this school the four graduates of the colored school (called Ungraded School Number Two).[68]

The campaign for School Board seats in Sacramento's December school board election revealed that the anti-Negro forces, though quiet for a while, were biding their time for a major assault. Democrats made a desperate attempt to gain control of the Board. If successful they intended to eject the black students from the Grammar School. Fortunately for blacks they were not successful; they gained only one of the four contested seats.[69]

At this point in time the attention of blacks in California

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[68] Record, February 28, 1874, p.3; June 27, 1874, p.5.
[69] Ibid., December 8, 1874, p.2; Elevator, December 5, 1874 p.2; December 12, 1874, p.3.

and elsewhere was focused on Washington D.C. Congress was once again considering the Civil Rights Bill (Butler's). President Grant, to the dismay of many, did not mention the Bill in his Annual Message, delivered in December. Still, expectations were high. But when the Bill emerged from the House sub-committee handling it, it was seriously diluted. Among other changes, the fine for failing to enforce the law was reduced from five thousand dollars to five hundred dollars. The section calling for mixed schools had been replaced with one specifying separate-but-equal facilities. In this form the Bill passed the House 113-93. After making its way through the Senate the Bill was signed into law by President Grant on February 22, 1875.

The softening revisions of the original Bill were apparently made to insure its success. A Bostonian black cited in the Appeal maintained that Grant's signature was conditioned on the deletion of the original school clause in favor of the separate-but-equal provision.[70] This substituion, protested the Appeal, made the document worthless, for it left the most crucial situation, discriminatory education, exactly as it had been. Editor Anderson concluded that blacks must pursue their rights in the courts, up to the Supreme Court. The courts, he said, could not consistently decide against blacks without grossly violating the Fourteenth and Fifteenth Amendments and the Civil Rights Bill.[71] Anderson's suggestion is curious, or at least ironic, since on the same page he admitted that the previous Supreme Court decision, in Ward vs. Flood, had not yet been enforced. He offered

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70 Appeal, February 20, 1875, p.2.

71 Ibid.

no reasoning as to why it should be different in the future.

In April a writer signing "Subscriber" wrote to the Appeal in opposition to a proposed celebration by blacks of the Fifteenth Amendment and the Civil Rights Bill. He contended that passage of the Bill minus the school clause was a cause for shame rather than rejoicing. It was silly, he continued, to celebrate the passage of "...a law that has neither force nor meaning to it...." He then turned to Anderson's suggestion of court battles. He seriously questioned the value of such a course since, as he said, of all the suits that had been brought in court, none had ever been decided in the plaintiff's favor.[72]

In the wake of the Civil Rights Bill disappointment, the blacks of San Francisco set out again to pursue their rights, energized by sheer persistence, the only province of possibility for the consistently oppressed. A numerously attended public meeting on the school question appointed a fifteen-man committee to present a petition to the Board and the ensuing Legislature for the opening of the public schools to all children. The petition was read at the Board's June 15 meeting and referred to committee. At the next Board meeting, July 6, the Committee on Classification recommended granting the petition and abolishing the separate colored schools. Considerable discussion followed. One Board member, Mr. Donovan, said that such a move would be against the law. Mr. Buffington retorted that there was a higher law which ought govern the matter. When at last the vote was called,

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[72] Appeal, April 17, 1875, p.2.

the committee's recommendation was rejected.[73] One month later, at the meeting of August 3, Mr. Buffington again made the resolution to abolish the separate schools. Mr. Bragg moved adjournment; motion voted and lost. Mr. Donovan argued that mixing the schools would do injury to the black pupils. But the vote was called, and Buffington's resolution, by a count of 7-4, received the Board's approval.[74]

Seemingly some of the Board members had determined that separate schools were indeed in conflict with civil law or possibly with the "higher law" to which Buffington had referred. Anderson in the Appeal pointed to some other very likely motivations for their action on the open enrollment measure. He said that there were those Board members who were seeking office in the upcoming election who did not want to risk losing the black vote by opposing the measure. He attributed the silence of the Democratic press on the Board's action to this same factor. Anderson also claimed that the Board was responding to the growing discontent of whites over paying up to five hundred dollars per month to educate a few black children when there was room for them in the white schools.[75]

Whatever the reasons for the action, a significant step toward educational rights for all black Californians had been made. For within San Francisco resided one third of the State's

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[73] Examiner, July 7, 1875, p.3; Appeal, June 19, 1875, p.2; July 10, 1875, p.2.

[74] Examiner, August 4, 1875, p. 3; Appeal, August 7, 1875, p.2.

[75] Appeal, August 7, 1875, p.2. Although black voters represented only a small percentage of the electorate their concentration in certain areas and their high turn-out rate often gave them the balance of power. Cf above, Chapter.III, p.

black citizens. Thus, with open enrollment here, in Oakland, Vallejo, and South San Francisco, a major portion of the battle had been won. And the situations in these cities' schools subsequent to the opening of enrollment had given the enemies of black rights no fodder for their cannons. Black students performed well in the white schools; they were cordially received by their fellow students and won the respect of their teachers.[76] In San Francisco, the opening of enrollment caused black school attendance to markedly increase in numbers and regularity. And Superintendent Denman discovered to his surprise that,

> "The pupils of different races and color are now settled in the same schoolroom and pursue their studies as quietly together as if they were children of the same family."[77]

This positive turn of affairs for black educational rights must have been especially gratifying to the man whose name had become almost synonymous with black education in California, the Rev. J.B. Sanderson. From as early as 1855 he had taught in colored schools in three major cities in the State, building up a reputation for excellence in instruction and devotion to the cause of black progress through learning. It was thus an utter kindness that life decreed him to witness a major advance toward the goal which claimed his dedication. And it likewise was an utter sadness that he, like another leader of the oppressed, was only to see the final fruition from the remove of a mountain precipice. Sanderson had left the Stockton colored school in early 1874, having been apponted by the A.M.E. Annual Conference

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[76] Cf. Elevator, July 4, 1874, p.2; October 10, 1874, p.2.

[77] Quoted in Cloud, Education in California, p. 45. See also Ferrier, Ninety Years, p. 101.

to the pastorate of Oakland's Shiloh Church. On August 19, 1875 while returning home from prayer meeting, Sanderson was struck and killed by a local train of the Southern Pacific Railroad. Throughout the State black men and women gathered in ceremonies of memorial to a fallen leader and friend.[78]

In the bittersweet moments when both the San Francisco Board's action and the Sanderson tragedy were still current items, the call for continued educational activity was raised. W.H. Hall, who had delivered the oration at San Francisco's tribute to Sanderson, reminded his fellows that in the fifty-four counties of the State only a handful of cities admitted blacks to full, equal educational priveleges. Hall warned that unless a State law was enacted to command black school rights, any and every Democratic board could retain or reinstate separate schools. He then emphasized the extreme importance of the upcoming election; black voters were urged to demand of every candidate, especially legislative and school board, a pledge of support for equal educational rights.[79]

San Jose was a good example of the tenuous nature of black educational rights which Hall said would exist if there was no change in the law. After the elections in that city the black children attending the white school were summarily dismissed. There had been no complaint against the children. The only apparent reason for their dismissal was that they were not white.[80] Sacramento was another good case in point. There a liberal

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[78] Beasley, Negro Trailblazers, p. 167; Appeal, August 21, 1875, p.2.

[79] Appeal, August 28, 1875, p.2.

[80] Cf. Appeal, November 13, 1875, p.2.

Board had made provision for black students of the colored ungraded school to graduate into the graded white schools. But from the start, anti-Negro forces worked to oust the few black students from these schools. And while never successful at this (though sometimes coming very close) they managed to preserve the separate colored ungraded school, in which all black pupils spent their first school years.[81]

At one point it looked as though the Negrophobists of Sacramento and other cities would have their way. The election of 1875 put the Legislature under Democratic control. Many predicted that the lawmakers would order the ouster of all black children from white schools into separate ones, as provided by State law. However they neither did this nor changed the law. The open enrollment vs. separate schools issue was, for the time being, subjected to a "benign neglect".[82]

The initiative for open enrollment continued to be taken by local school boards rather than the Legislature. In 1878 the black children of San Jose were admitted to the white schools; the same occured in Stockton in 1879.[83] But this city by city movement was slow. And since it was done by boards it could always be reversed by boards. Blacks wanted to see the establishment of complete, legally secure open enrollment.

The State Constitutional Convention to convene in October of 1878 was an ideal place for this to come about. Blacks hoped that the overhaul of the ground rules of the State would be in

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[81] Cf. Appeal, March 3, 1877, p.2.

[82] Appeal, April, 1876, p.2.

[83] Cf. Appeal, July 7, 1878, p.2. George H. Tinkham, History of San Joaquin County, p. 236.

accord with the federal Constitutional Amendments and the liberal steps taken by some California school boards. But such was not the case; the new document produced by the conventioners failed to take a stand on race discrimination in education. Blacks in many cities of the State openly opposed it and refused to cast their votes for it, notwithstanding which it was adopted.[84]

In search of their educational rights black Californians had looked to the local boards, the local courts, the Legislature, the Supreme Court, the U.S. Congress, the State Constitutional Convention - they had run the gamut. Only in some local boards had they found some modicum of satisfaction, and that many times as a result of white economic self-interest.[85] But full satisfaction was close at hand It came on April 7, 1880, as the twenty third session of the Legislature was nearing its close. On that day the State's lawmakers, without fanfare or even much special attention, repealed Sections 1669, 1670, and 1671 of the California Political Code, opening to black students admission to all publicly supported schools.[86] Unfortunately the files of the two black papers are empty for this period and the white papers were strangely silent on this development, so that the response of the black community in sentiment and cele-

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[84] Constitution of the State of California. 1879. Found in Bancroft Library. A proposal for a constitution submitted by E.D. Sawyer, a San Francisco lawyer, included an open enrollment clause. How much, if any, of Sawyer's draft found its way into the 1879 Constitution is uncertain. Apparently his call for mixed schools feel on a majority of unreceptive ears. Cf. E.D. Sawyer, Draft of a Constitution. Bancroft Library.

[85] Objections to blacks in the white schools was overcome in some cases by the financial pinch of maintaining separate schools. Cf. Tinkham, loc. cit.; Oakland News, Januaru 17, 1872, p.3.

[86] Theodore H. Hittell, Supplement to the Codes and Statutes of the State of California. (San Francisco:A.L. Bancroftand Company, 1880), p.104.

bration cannot be detailed. But one can imagine that there was great rejoicing. Black Californians had seen the demise of slavery in their free State; they had gained the right to self defense in the courts of law; they had received a voice in managing the affairs of their State and country, a voice which served both as protection against abuse and a vehicle for expressing their wishes. And now they were openly received into the halls of learning, wherein one gained the power of knowledge which could elevate one's station in life and which enabled one to pierce the mysteries of Divine will and human responsibility.

There must have been great rejoicing indeed. For in gaining the unrestricted right to education, "the great lever of elevation", black Californians had reached the end of an era. Their pursuit of their rights had so often been like the proverbial pursuit of the ever receding carrot. But after three decades of struggle, they had achieved the prize, they now owned "Equality Before the Law". The task of the future was to redeem the prize before men.

FROM WHENCE IT CAME: BIBLIOGRAPHICAL ESSAY

The basic outline and much of the detail of the black rights struggle in California was chronicled in the newspapers of the day. The black publications, because they arose mainly as instruments of that struggle, are the basic primary sources. They were edited by able men who had made the social and political advancement of black people the burden of their life committment. The white news journals reflected the response of the white community to the presence of blacks in their midst and to the rights agitation. That response was sometimes shown in articles supporting the call for social justice, sometimes in articles denouncing and defaming black people, sometimes in a deafening silence in regards to significant events in the rights movment. In general the major journals of Northern California were lukewarm to cold on the black struggle. Occasionally some of them took strong stands on social justice for blacks, as did the Sacramento Union and the San Jose Mercury. Others, such as the San Francisco Examiner, often took strong stands to the contrary. None of them mounted a sustained editorial campaign in favor of any of the rights for which blacks fought. This judgment of the white secular press applies fairly well to the religious press. The Catholic Monitor was seemingly anti-Negro. The Pacific (Congregational) and the Advocate (Methodist) seemed to favor the end of slavery. On other issues there generally was silence at crucial points. And except for the Pacific's campaign against slavery in California, their were no editorial crusades in regards to black rights.

Below is a listing of the papers cited in the text, listed al-

phabetically according to their city of publication:

Marysville	Appeal
New York	Times
Sacramento	Union
	Record
San Jose	Mercury
San Francisco	California Christian Advocate
	Alta California
	Bulletin
	Call
	Chronicle
	Elevator (black)
	Examiner
	Lunar Visitor (black)
	Mirror of the Times (black)
	Monitor
	Pacific
	Pacific Appeal (black)
	Post
Stockton	Independent
Vallejo	Chronicle
Washington, D.C.	New National Era (black)

A second group of primary source materials of importance in discovering the story of the rights movement included copies of orations, addresses, articles, and documents. All are found in the Bancroft Library, Univeristy of California, Berkeley.

Brown, Ross. Report of the Debates in the Convention of California on the Formation of the Constitution, 1849. Washington: John T. Towers, Printer, 1850.

Cole, Peter. "Cole's War with Ignorance and Deceit". San Francisco: J.H. Udell & R.P. Locke, 1857. This was a strong encouragement to blacks to seek education. Bound with it were: a. two short speeches by other blacks rallying blacks to the rights movement; b. a set of poems, pro and con, on the proposed emigration of blacks from the State; c. the minutes of the San Francisco County Colored Convention.

Constitution of the State of California. San Francisco: Office of the Alta California, 1849.

Constitution of the State of California, 1879. California Pamphlets, Vol. 8, No. 1.

Cowdery, J.F. "The Word 'White' in the California School Laws" California Pamphlets, Vol. 8, No. 10. This is a speech by Assemblyman Cowdery before the Assembly January 30, 1874. It argued for the elimination of racial qualifications for admission into the public school system.

Hoge, Joseph. "Shall Negroes and Chinamen Vote in California?" Single sheet reprinted by the California Historical Society from the San Francisco Examiner, August, 1869. Hoge penned the article as the official anti-Negro, Anti-Chinese state-

ment of the Democratic State Central Committee.
Janes, H.B. Esq. "Have Negroes been taught and classed on terms of equality in a Public School under the charge of Mr. John Swett?" Privately printed campaign literature denouncing Swett's alleged (falsely) abolitionism. Hayes' Scrapbook Number 22, California Politics.
Johnson, Ezra. "Emancipation Oration". San Francisco: Elevator Office [sic], 1867.
King, Thomas Starr. Letter written January 30, 1863 from San Francisco to a Mr. Bellows, a close acquaintance in the East. Contains a prayer delivered by a black man at an Emancipation Day celebration, January, 1863.
Langley, Henry G. (compiler). The San Francisco Directory, 1858. No publication data.
Proceedings of the First State Convention of the Colored Citizens of the State of California. Sacramento: Democratic State Journal, Print [sic], 1855.
Proceedings of the Second Annual Convention of the Colored Citizens of the State of California. San Francisco: J.H. Udell & W. Randall, 1856.
Proceedings of the California State Convention of Colored Citizens. San Francisco: "Elevator" [sic] Printing Office, 1865.
Sawyer, E.D. Draft of a Constitution San Francisco: Wm. P. Harrison, Book & Job Printer, 1878.
State Executive Committee. "Address to the Colored People of the State of California." Sacramento: n.p., 1859. The address reviewed the rights struggle to date and gave directions for the movement's future.
Swett, John. "Address of the Superintedent of Public Instruction of the State of California, Hon. John Swett, before the Teachers Institute." San Francisco: Towne & Bacon, 1867.
--. First Biennial Report of the Superintendent of Public Instruction (n.p.: O.M. Clayes, State Printer, 1865).
Winans, J.W. "In re: The Petition of Stovall, Claimant, for the body of Archy, his alleged slave." Pamphlets on California.

Because the proscriptive treatment of black Californians was written into the laws of the State, it was to the Legislature that rights activists made their primary appeal - through petitions, memorials, and selective voting in the election of legislators. The Journals of the Legislature recorded the passage of the discriminatory laws and also the appeals of blacks and the efforts of sympathetic lawmakers to reverse those laws. The limitation of the Journals is that they often did not record the texts of bills or the arguments of legislators for and against their passage. These details

were usually supplied by news journals which reported on legislative proceedings. Official compilations of enacted statutes were helpful in giving the texts of these statutes and brief summary of preceding, related statutes. The following Journals and statute books were used:

Journal of the Senate

1850
1858
1863
1867-68
1868
1869-70
1871-72

Journal of the Assembly

1851
1852
1858
1863
1863-64
1866
1869-70
1872
1874

Statutes of California

1854
1861
1863
1863-64
1865-66
1869-70

Hittell, Theodore H. Supplement to the Codes and Statutes of the State of California. San Francisco: A.L. Bancroft and Company, 1880.

Various details of black life in California and other parts of the nation were supplied by information given in the following autobiographies, biographies, and reminiscences:

Botkin, B.A. (ed) Lay My Burden Down. Chicago: The University of Chicago Press, 1945.
Brown, William Wells. The Black Man. New York: Krause Reprint Co., 1969 - original, 1863.
Gibbs, Mifflin Wistar. Shadow and Light. Washington: n.p., 1902.
Holdredge, Helen. Mammy Pleasant. New York: G.P. Putnam's Sons, 1953.
Hughes, Louis. Thirty Years a Slave. New York: Negro Universities Press, 1969.
Lapp, Rudolph. Archy Lee n.p.: Book Club of California, 1969.
Olmsted, Frederick Law. Cotton Kingdom. New York: Alfred A. Knopf, 1953.
Osofsky, Gilbert. Puttin' On Ole Massa. New York: Harper & Row, 1969.

Saxon, Isabelle. Five Years Within the Golden Gate. London: Chapman and Hall, 1868.

Thurman, Sue Bailey, Pioneers of Negro Origin in California. San Francisco: Acme Publishing Company, 1952.

Wright, R.R., Jr., Bishop. The Bishops of the African Methodist Episcopal Church. Nashville: The A.M.E. Sunday School Union, 1963.

In discovering the black and the white Churches' relation to the black rights struggle, certain church records were helpful. They are as follows:

"Annual Report", St. Andrews A.M.E. Church, Sacramento. This document, compiled by the pastor of the church, the Rev. Cyprus P. Keller, contains a section on the history of St. Andrews, which was the first black church on the West Coast. A copy was personally obtained from the church.

Journal of Proceedings of the Third Annual Convention of the Ministers and Lay Delegates of the African Methodist Episcopal Church. San Francisco: B.F. Sterett, Printer, 1863. Found in the Bancroft Library, University of California, Berkeley. It is the minutes of the California A.M.E. Conference for 1863.

Minutes of a Baptist Convention. San Francisco: Towne & Bacon, 1860. Found in Bancroft Library.

Given below are church records found in the rare book room of the Pacific School of Religion, Berkeley:

Minutes of the Annual Meetings of the General Association of California. These records of the State-wide Congregational association, from 1852 through 1867 are bound together in two volumes. No publication data given for the volumes.

Minutes of the California Annual Conference of the Methodist Episcopal Church. Records for 1860-68, 1876-77, 1873-87. Bound in three volumes. San Francisco: Methodist Historical Society, n.d.

Minutes of the Sacramento Valley Baptist Association, 1857, 1861, and Minutes of the San Francisco Baptist Association, 1861. The records of these two State organizations, which merged around 1861, are bound in volume two of the Minutes of the General Association.

Other scholars have done studies relating to various aspects of black life in nineteenth-century California and their productions contributed to the present study at a number of points. These works are:

Theses, Dissertations

Fisher, James. "A Social History of Negroes in California, 1860-1900" Masters Thesis, Sacramento State College, 1864.

Lortie, Francis N., Jr. San Francisco's Black Community, 1870-1890: Dilemmas in the Struggle for Equality." Masters Thesis, San Francisco State College, 1970.

Mann, Robert. "Protestant Missionary Activities in California, 1849-59." Masters Thesis, University of California, Berkeley.

Montesano, Phillip. "Some Aspects of the Free Negro Question in San Francisco, 1849-1870." Masters Thesis, University of San Francisco, 1967.

Thurman, A. Odell. "The Negro in California before 1890" Masters Thesis, Univeristy of the Pacific, 1945.

Unpublished Papers

Lapp, Rudolph. "Negro Rights Activities in Gold Rush California" ca. 1960. Found in Bancroft Library, University of California, Berkeley.

Matthews, Miriam. "The Negro in California." Report submitted to the Graduate School of Library Science, University of Southern California, 1944. Found in Bancroft Library. It is primarily a bibliography of works containing information on, or references to, blacks in California.

Montesano, Phillip. "The Black Churches in Urban San Francisco, 1860-65." ca. 1967. Found in the San Francisco Public Library, main branch.

--. Phillip Alexander Bell: "San Francisco Community Politician of the 1860's" ca. 1967. Found in the San Francisco Public Library, main branch.

Reynolds, Marion. "Instances of Negro Slavery in California." Harvard University, 1914. Found in Bancroft Library.

Siracusa, Ernst. "Black '49ers." 1959. Found in Bancroft Library.

Articles

Beales, Benjamin Bronston. "The Mercury and the Civil War," California Historical Society Quarterly, Vol.XXII, 1943.

Bennett, Lerone. "Jubilee," Ebony, February, 1972.

Fisher, James. "The Struggle for Negro Testimony in California, 1851-1863," Southern California Quarterly, Vol L, No. 4, December, 1969.

Lapp, Rudolph. "Jeremiah B. Sanderson: Early California Negro Leader," The Journal of Negro History, Vol. LIII, No. 4, October, 1968.

--. "The Negro in the Gold Rush," The Journal of Negro History, Vol. XLIX, April 1964.

Polos, Nicholas C. "Segregation and John Swett, "Southern California Quarterly, Vol. XLVI, March, 1964.

Ridout, Lionel U. "The Church, the Chinese and the Negroes in California, 1849-1893," The Historical Magazine of the Protestant Episcopal Church. Vol XXVIII, No. 2, June 1959.

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The struggle of black Californians for their rights as citizens was not an isolated phenomenon. Rather it was lodged in the context of the historical development of the State and the nation. There was, to be sure, some unique aspects in the black Californians' story. Yet the black agitation and white response in the West bore close resemblance to corresponding phenomena in the rest of the country. The religious and ideological motivations for this thrust and response were also largely shared by blacks and whites across the nation. To set forth the secular and religious context in which the rights movement unfolded, a number of historical works were employed. They are:

California History

Bancroft, Hubert Howe. History of California. 7 Vols. San Francisco: The History Company, 1886.

Bean, Edwin F. Bean's History and Directory of Nevada County, California. Nevada: Daily Gazette Book and Job Office, 1867.

Beasley, Delilah L. The Negro Trailblazers of California. Los Angeles: n.p., 1919. This is an excellent starting source for history of blacks in California: it leads to a number of important but obscure sources, details, and persons. But often the text contains misstatements and erroneous dates.

Caughey, John W. California. Englewood Cliffs: Prentice-Hall, Inc., 1970

Cleland, Robert. A History of California 2 Vols. New York: The Macmillan Company, 1939.

Cloud, Roy W. Education in California. Stanford: Stanford University Press, 1952.

Eaves, Lucille. A History of California Labor Legislation. Berkeley: The Univeristy Press, 1910.

Ferrier, William W. Ninety Years of Education in California: 1846-1936. Berkeley: Sather Gate Book Shop, 1937.

Forbes, Jack D. Afro-Americans in the Far West. Berkeley: Far West Laboratory for Educational Research and Development, n.d., ca. 1970.

Hittell, Theodore. History of California, 4 Vols. San Francisco: N.J. Stone & Company, 1897.

Hunt, Rockwell D. A Short History of California. New York: Thomas Y. Cromwell Company, 1929.

Shippey, Mervyn G. A Short History of the Visalia Colored School. San Francisco: R and E Associates, 1970.

Swett, John. History of the Public School System in California. San Francisco: A.L. Bancroft and Company, 1876.

--.Public Education in California. New York: American Book Company, 1911.

Tinkham, George H. The History of San Joaquin County. Los Angeles: Historic Records Company, 1923.

National History

Aptheker, Herbert. A Documentary History of the Negro People in the United States. 2 Vols. New York: The Citadel Press, 1971.

Bennett, Lerone. Before the Mayflower. Baltimore: Penguin Books, 1966.

DuBois, W.E.B. Black Reconstruction in America, 1860-1880. Cleveland: Meridian Books, 1967.

Franklin, John Hope. From Slavery to Freedom. New York: Vintage Books, 1969.

--.Reconstruction After the Civil War. Chicago: The University of Chicago Press, 1963.

Litwack, Leon F. North of Slavery. Chicago: The University of Chicago Press, 1966.

Meir, August and Rudwick, Elliot (eds.). The Making of Black America 2 Vols. New York: Atheneum Press, 1969. Vol. I

Weyl, Nathaniel. The Negro in American Civilization. Washington: Public Affairs Press, 1960.

Religious History

Allen, Richard. The Life Experience and Gospel Labors of the Right Reverend Richard Allen. New York: Abingdon Press, 1960. This work is a collection of Allen's writings from the 1790's. It contains an account of the founding of the A.M.E. Church.

Bradley, David Henry, Sr. A History of the A.M.E. Zion Church. 2 Vols. Nashville: The Partheon Press, 1956.

Brauer, Jerald C. Protestantism in America. Philadelphia: The Westminster Press, 1953.

Clebsch, William A. From Sacred to Profane America. New York: Harper & Row, 1968.

Fleming, Sanford. God's Gold. Philadelphia: The Judson Press 1949.

Frazier, E. Franklin. The Negro Church in America. New York: Schocken Books, 1970.

Hudson, Winthrop S. Religion in America. New York: Charles Scribner's Sons, 1965.

Loofbourow, Leon L. In Search of God's Gold. San Francisco: The Historical Society of the California-Nevada Annual Conference of the Methodist Church, 1950.

Miller, Perry. Errand Into the Wilderness. Cambridge: Belknap Press, 1956.

--.Nature's Nation. Cambridge: The Belknap Press, 1967.

Singleton, George A. The Romance of African Methodism. New York: Exposition Press, 1952.

Smith, H. Shelton (ed.). American Christianity, 2 Vols. New York: Charles Scribner's Sons, 1960. Vol. II.

Smith, James Ward (ed.). The Shaping of American Religion. Princeton: Princeton University Press, 1961.

Weatherford, W.D. American Churches and the Negro. Boston: The Christopher Publishing House, 1957.

Woodson, Carter G. The History of the Negro Church. Washington: The Associated Publishers, 1921.

In illustrating portions of the text certain works were drawn upon which demonstrate, or trace the development of, concepts and historical patterns bearing some relation to the California black rights movement. These works are:

Bardolph, Richard (ed.) The Civil Rights Record. New York: Thomas Y. Crowell, 1970.

Drake, St. Clair. The Redemption of African and Black Religion. Chicago: Third World Press, 1970.

Gossett, Thomas F. Race: The History of an Idea in America. New York: Schocken Books, 1969.

Herndon, Calvin C. Sex and Racism in America. New York: Grove Press, Inc., 1966.

Jones, LeRoi. Blues People. New York: Alfred A. Knopf, 1953.

McCoy, Charles S. "The Covenant Theology of Johannes Cocceuis". Doctoral Dissertation, Yale University, 1966.

Pipes, William. Say Amen, Brother. New York: The William-Frederick Press, 1951.

Ritschl, Otto. Dogmensgeschichte des Protestantismus. Gottingen: Vandenhoeck & Ruprecht, 1912.

Smith, H. Shelton. In His Image, But.... Durham: Duke University Press, 1972.

Strong, Josiah, Our Country: Its Possible Future and Present Crisis. New York: The Baker and Taylor Co., 1885.

Other works used in this study but not falling into any of the above categories are:

American Imprints Inventory: A Checklist of California Non-Documentary Imprints, 1833-1855. Northern California Historical Records Survey. San Francisco: n.p., 1942. This work was one of the projects of the Work Projects Administration. This work identifies extant rare and archival-type documents and gives their present location.

Drury, Clifford. California Imprints, 1846-1876. This work also identifies and locates rare documents.

Johnson, James Weldon. The Books of American Negro Spirituals Two Volumes in one. New York: The Viking Press, 1969.

Newspaper Index, California State Library, Sacramento. This is an extensive card file on a very wide variety of topics, locating their appearance in the major news journals of the State. It covers from the first years of Statehood to the present.

U.S. Census.

Seventh Census of the United States. 1850. Washington: Government Printing Office, 1853.

Eighth Census of the United States. 1860. Washington: Government Printing Office, 1860.

Ninth Census of the United States. 1870. Washington: Government Printing Office, 1872.

Much work remains to be done on the life and history of black people in California. There are materials available to do the work

but they must be ferreted out. In addition to the above references the following are places where useful research might be done:

The East Bay Negro Historical Society. Oakland. Has a small but growing collection of rare documents, pictures, and memorabilia on California blacks. It is run by Mr. & Ms. Eugene Lasartemay. Ms. Lasartemay is the descendent of a black family which came to the State in the 1880's.

The San Francisco Negro Historical and Cultural Society. Again, a small but growing collection of black related historical materials.

The California Historical Society. San Francisco. A large repository for historical materials dealing with California.

The older black churches may be of some help. Most often minutes of meetings and events leave with the secretaries who recorded them. But in some cases either the records or the secretaries, or both, are still around. And because of the focal nature of the churches in the black community in the past, and largely so in the present, such records may provide helpful insights into the lives of blacks at a given time.

Both within the churches and without there are a number of elderly blacks who probably have in their possession much valuable information, particularly those who are descendents of pioneering black families. Ably conducted interviews with such persons could bear fruit in drawing forth historical data which has passed down orally through generations. In addition, one may be given entree to valuable documents and materials which not infrequently sit gathering dust with the other "junk" in their owners' cellars until the accumulation becomes unbearable and a long-delayed clean-up campaign secures their demise.

Doing the history of black people anywhere is a challenge, largely because it is so much a catch-up venture, calling upon the historian to perform creditably in an area which has so long been neg-

lected. But those who have taken up the gauntlet have discovered that with the challenge there is an equal, if not greater compliment of excitement. And so the work continues.